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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Case No. 1:19-cr-227
(LJV)

v.

February 22, 2024

JOSEPH BONGIOVANNI,

Defendant.

TRANSCRIPT EXCERPT - TESTIMONY OF LOUIS SELVA - DAY 2
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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* * * *

13 (Excerpt commenced at 9:49 a.m.)

14 (Jury is present.)

15 | **THE COURT:** Let's bring the witness back in.

16 | MR. TRIPI: Yes, we recall Lou Selva.

17 **THE COURT:** And the record will reflect that all our
18 jurors are present. I should have said that before I said the
19 question a minute ago, and I didn't, but the record will
20 reflect that all our jurors are present.

21 I remind the witness he's still under oath.

22 | And you may continue, Mr. Tripi.

23 | MR. TRIPI: Thank you, Your Honor.

24

25

09:50AM 1 **L O U I S S E L V A**, after being previously duly called and
09:50AM 2 sworn, continued to testify as follows:

09:50AM 3

09:50AM 4 **DIRECT EXAMINATION BY MR. TRIPI (CON'T) :**

09:50AM 5 Q. Mr. Selva, yesterday when we sort of ended off, I think
09:50AM 6 we had just asked you some questions about J.D.; do you
09:50AM 7 recall that?

09:50AM 8 A. Yes.

09:50AM 9 Q. When you had your conversations with Mr. Bongiovanni
09:50AM 10 about J.D. being an informant, were those conversations that
09:50AM 11 you had with the defendant sometime after 2008?

09:50AM 12 A. Yes.

09:50AM 13 Q. Can you help the jury, can you provide a tighter
09:51AM 14 time frame, estimated time frame for when those conversations
09:51AM 15 occurred?

09:51AM 16 A. About 2012, '13.

09:51AM 17 Q. Okay. Now, yesterday towards the end of the day, I asked
09:51AM 18 you about Anthony Anastasia as well?

09:51AM 19 A. Yes.

09:51AM 20 Q. And what bar was Anthony Anastasia associated with?

09:51AM 21 A. Gables.

09:51AM 22 Q. Is that a bar on Hertel Avenue?

09:51AM 23 A. It's a bar on Hertel Avenue.

09:51AM 24 Q. Is there another individual that you and the defendant
09:51AM 25 grew up with named Steve who also works there, or worked

09:51AM 1 there?

09:51AM 2 A. Yes.

09:51AM 3 Q. And who was that again?

09:51AM 4 A. Steve Brucato.

09:51AM 5 Q. Now, at some point yesterday, I asked you about

09:51AM 6 Mr. Serio's gambling habits, his casino habits; do you

09:51AM 7 remember that?

09:51AM 8 A. Yes.

09:51AM 9 Q. As it relates to -- as it relates to Mr. Serio, what, if

09:51AM 10 any, conversations did you have with the defendant,

09:52AM 11 Mr. Bongiovanni, regarding the IRS and any role they had in

09:52AM 12 an investigation?

09:52AM 13 A. He said the IRS was looking at him for his winnings at

09:52AM 14 the casino. He was winning quite a bit of money. A lot of

09:52AM 15 money.

09:52AM 16 Q. So just remember with the pronouns, right, can you use

09:52AM 17 names? He said he. Can you repeat that answer?

09:52AM 18 A. Yes, I'm sorry.

09:52AM 19 Q. Yes names.

09:52AM 20 A. The defendant, Mr. Bongiovanni, said that Mr. Serio was

09:52AM 21 winning a lot of money, and there was an investigation with

09:52AM 22 the IRS.

09:52AM 23 Q. Did Mr. Bongiovanni give you any more details than that?

09:52AM 24 A. No.

09:52AM 25 Q. What did you do with that information?

09:52AM 1 A. I told Mike.

09:52AM 2 Q. You told Masecchia?

09:52AM 3 A. Yes.

09:52AM 4 Q. In the context of any investigation of -- of -- of
09:52AM 5 your -- your group, Masecchia, Serio, did you have any
09:52AM 6 conversations regarding a technique called GPS trackers?

09:53AM 7 A. Yes.

09:53AM 8 Q. What conversation did you have with the defendant about
09:53AM 9 GPS trackers?

09:53AM 10 A. They were used to put on vehicles to track movement of
09:53AM 11 individuals that were being surveilled.

09:53AM 12 Q. And can you describe the context in which that
09:53AM 13 conversation came up between you and the defendant?

09:53AM 14 A. He said that there were trackers being used on, I
09:53AM 15 believe, Mike's truck.

09:53AM 16 Q. And when you say "Mike," you're referring to Masecchia?

09:53AM 17 A. Masecchia, yes.

09:53AM 18 Q. What did you do with the information you were provided?

09:53AM 19 A. I told Mike.

09:53AM 20 Q. What did Mike say when you provided him that information?

09:53AM 21 A. He said he was going to change his routine now. He let
09:54AM 22 Ron know, as well.

09:54AM 23 Q. And what was Mike's general routine as it related to his
09:54AM 24 involvement in the operations?

09:54AM 25 A. He would go to different locations that he had for

09:54AM 1 hydroponic operations. Usually, after when he got out of
09:54AM 2 school, he was a school teacher, and he would take care of
09:54AM 3 them. Take care of the plants.

09:54AM 4 Q. Where was Masecchia a school teacher?

09:54AM 5 A. I believe it was the old Grover Cleveland High School.

09:54AM 6 Q. Is that --

09:54AM 7 A. I don't know the new name.

09:54AM 8 Q. Is that a school on the West Side of Buffalo?

09:54AM 9 A. Yeah, it's on the West Side of Buffalo.

09:54AM 10 Q. Is it a high school?

09:54AM 11 A. It's a high school.

09:54AM 12 Q. How long had he taught there?

09:54AM 13 A. 25 years.

09:54AM 14 Q. Whose idea was it to install a marijuana grow operation
09:55AM 15 in your house to grow plants to maturity?

09:55AM 16 A. I discussed that with Mike. He had told me how it
09:55AM 17 happened, and what he had done in the past. So I decided to
09:55AM 18 do it in my house.

09:55AM 19 Q. And was there any conversation related to the defendant
09:55AM 20 as it -- in that, in the context of the grow operation at
09:55AM 21 your house, so when you discussed it with Mike?

09:55AM 22 A. Yes.

09:55AM 23 Q. What was that?

09:55AM 24 A. He said make sure and let Joe know what's going on at
09:55AM 25 your house.

09:55AM 1 Q. Why was that important?

09:55AM 2 A. Again, if anything were to happen, I mean, I have
09:55AM 3 neighbors. There was sometimes a smell, but we had an
09:55AM 4 ionizer. The utility bills, if they were to go up, a lot of
09:55AM 5 red flags.

09:55AM 6 Q. After you had the marijuana operation, I think yesterday
09:55AM 7 you said it was in your basement, right?

09:55AM 8 A. Yes.

09:55AM 9 Q. After you had that operation set up at your house, did
09:56AM 10 the defendant ever come over to your house?

09:56AM 11 A. Yes.

09:56AM 12 Q. Describe that for the jury.

09:56AM 13 A. Stopped over, had a drink, just catching up. And he
09:56AM 14 noticed the smell.

09:56AM 15 Q. So what happened at that point?

09:56AM 16 A. I told him what I had going on in my basement.

09:56AM 17 Q. What, if anything, did the defendant say to that?

09:56AM 18 A. Just be careful. I'll keep -- I'll let you know if
09:56AM 19 something's going on, but be careful.

09:56AM 20 Q. And how many plants did you have in there growing?

09:56AM 21 A. I believe about 50. 40 to 50.

09:56AM 22 Q. And who actually installed the equipment for you?

09:56AM 23 A. Mike, and Ron Serio, and myself. The three of us did it.

09:57AM 24 Q. And how did it work -- withdrawn.

09:57AM 25 How long would a grow cycle be in your basement?

09:57AM 1 A. Four months. I mean, we would -- it was a little bit
09:57AM 2 different, because they were on timers. We would, excuse me,
09:57AM 3 six months, because you'd have to get the clones ready, and
09:57AM 4 then you transplant them, and then you put them in littler
09:57AM 5 pots. And then they would be in the room with the
09:57AM 6 retractable light on timers.

09:57AM 7 Q. What -- describe some of the equipment that you used in
09:57AM 8 setting up an indoor grow like that.

09:57AM 9 A. There was an ionizer. There was a ventilation system
09:57AM 10 that we set up that sucked the air out of the room that went
09:57AM 11 through the vent to my -- right near my vent for my dryer.
09:57AM 12 Actually, it was tied into that.

09:57AM 13 There was a retractable grow light with timers.

09:58AM 14 Q. And when the plants were mature, what would do you with
09:58AM 15 them at your house?

09:58AM 16 A. We would cut them down, and then we would hang them in a
09:58AM 17 dark room with fans blowing to dry them.

09:58AM 18 Q. And how long does that part take?

09:58AM 19 A. Three days.

09:58AM 20 Q. And were you ever -- did you ever discuss with the
09:58AM 21 defendant anything related to National Grid or the energy
09:58AM 22 that is used in the process of growing marijuana at your
09:58AM 23 house?

09:58AM 24 A. Yes. Well, I was aware of it, too, that to -- raise a
09:58AM 25 red flag. But I asked him if there was ever a red flag

09:58AM 1 raised, to let me know.

09:58AM 2 Q. What do you mean by it could raise a red flag? Describe
09:58AM 3 it for the jury.

09:58AM 4 A. You're using a lot more energy, and your bill is going to
09:58AM 5 go up, so it's going to show a big spike. So that raises a
09:58AM 6 red flag.

09:58AM 7 Q. And when you discussed that type of thing -- withdrawn.
09:59AM 8 When you discussed that with the defendant, what did he
09:59AM 9 say?

09:59AM 10 A. He said, just, I'll keep an eye on it, and be careful.

09:59AM 11 Q. And how many -- how many cycles, how many years of grows,
09:59AM 12 did you do at your house?

09:59AM 13 I'm not talking about the cloning from before when it was
09:59AM 14 just cloning and then moving the plants outdoors, I'm talking
09:59AM 15 about the full cycle from beginning to end at your house, how
09:59AM 16 many years did that persist?

09:59AM 17 A. I believe five.

09:59AM 18 Q. And was it 40 to 50 plants every cycle?

09:59AM 19 A. Yes. We always didn't get that, but you have some that
09:59AM 20 died, that type thing.

09:59AM 21 Q. So on the low end, about 200 plants?

09:59AM 22 A. Yes.

09:59AM 23 Q. And how many pounds of marijuana did that equate to
09:59AM 24 roughly?

09:59AM 25 A. Over the full year, or for a cycle?

10:00AM 1 Q. Average per cycle?

10:00AM 2 A. Per cycle? Probably, again, they were smaller, they
10:00AM 3 weren't as big as they are outdoor, so there was less weight
10:00AM 4 that was involved. It was probably about a half pound to a
10:00AM 5 quarter pound.

10:00AM 6 Q. Per plant?

10:00AM 7 A. Per plant. But it was a higher grade because it was a
10:00AM 8 better grade.

10:00AM 9 Q. What do you mean by that?

10:00AM 10 A. Indoor, there were certain strains that are better than
10:00AM 11 outdoor. So it was a better strain where the quality was
10:00AM 12 better.

10:00AM 13 Q. What was the strain you were growing?

10:00AM 14 A. I believe it was Bubba Kush, Mother's Finest. Those are
10:00AM 15 the two that I can remember.

10:00AM 16 Q. Who had the seeds?

10:00AM 17 A. Mike had gotten that.

10:00AM 18 Q. Do you know where he got the seeds?

10:00AM 19 A. I don't.

10:00AM 20 Q. So if you had to estimate just from your house the five
10:01AM 21 years you did the grows, approximately how many pounds are we
10:01AM 22 talking about?

10:01AM 23 A. That's a good question. Well --

10:01AM 24 Q. Overall.

10:01AM 25 A. Overall? It may be 100 or less.

10:01AM 1 Q. So, 100 pounds on the high end. How much on the low end?

10:01AM 2 A. 80.

10:01AM 3 Q. So 80 to 100 pounds?

10:01AM 4 A. Yes.

10:01AM 5 Q. As an estimate?

10:01AM 6 A. Yes.

10:01AM 7 Q. And while those indoor grows are happening at your house,

10:01AM 8 those outdoor grows are still going?

10:01AM 9 A. Yes.

10:01AM 10 Q. Were there other locations where there were indoor grows

10:01AM 11 like was set up at your house?

10:01AM 12 A. Yes, it was between -- I wasn't involved with those.

10:02AM 13 That was between Mike and Ron, they had other locations.

10:02AM 14 Q. But you knew they existed?

10:02AM 15 A. Yes.

10:02AM 16 Q. Describe what happens after the plant grows to maturity

10:02AM 17 and they're dried in your basement. What would you do next?

10:02AM 18 Is packaging the next step?

10:02AM 19 A. It's clipping. You have to -- now it's dried, you have

10:02AM 20 to trim all the leaves and take it off the bud. And then you

10:02AM 21 put it in a bag.

10:02AM 22 Q. What kind of bags?

10:02AM 23 A. Ziploc bag.

10:02AM 24 Q. What size?

10:02AM 25 A. Quarter pound. Half pound.

10:02AM 1 Q. And how much was the going rate for the marijuana you
10:02AM 2 grew?

10:02AM 3 A. At that time? I think it was \$3,000 a pound.

10:02AM 4 Q. And who was distributing it primarily?

10:02AM 5 A. Ron. We would sell to Ron.

10:02AM 6 Q. Did Ron have a list of steady customers that were getting
10:03AM 7 that marijuana?

10:03AM 8 A. Yes, he did.

10:03AM 9 Q. And by "customers," these are not smokers, these are
10:03AM 10 other distributors?

10:03AM 11 A. Yes.

10:03AM 12 Q. Okay. Now I want to fast forward a moment. August 23,
10:03AM 13 2019, Homeland Security does a search warrant at your house?

10:03AM 14 A. Yes.

10:03AM 15 Q. Did they seize some of the equipment that was described
10:03AM 16 that was involved in the process?

10:03AM 17 A. They did.

10:03AM 18 Q. I'm going to show you what's marked as Exhibit 201A.

10:04AM 19 A. Okay.

10:04AM 20 **MR. TRIPI:** May the record reflect that I've handed
10:04AM 21 up Exhibit 201A. It's sitting next to the witness at the
10:04AM 22 podium or at the stand.

10:04AM 23 **BY MR. TRIPI:**

10:04AM 24 Q. Do you recognize Exhibit 201A?

10:04AM 25 A. Yes.

10:04AM 1 Q. What do you recognize that to be?

10:04AM 2 A. It's a grow light and ballast that was in my basement.

10:04AM 3 Q. And what is that grow light used for?

10:04AM 4 A. For growing. It was on a retractor growing the marijuana
10:04AM 5 plants.

10:04AM 6 Q. Is that in the same or substantially same condition today
10:04AM 7 as when it was seized from your residence?

10:04AM 8 A. This?

10:04AM 9 Q. Yes.

10:04AM 10 A. Yes.

10:04AM 11 **MR. TRIPI:** The government offers exhibit -- I'm
10:04AM 12 sorry, that's Exhibit 201. I couldn't see the sticker through
10:04AM 13 the cellophane. The government offers Exhibit 201,
10:04AM 14 Your Honor.

10:04AM 15 **MR. SINGER:** No objection.

10:04AM 16 **THE COURT:** 201 is received without objection.

10:04AM 17 **(GOV Exhibit 201 was received in evidence.)**

10:04AM 18 **MR. TRIPI:** Thank you, Your Honor.

10:04AM 19 **BY MR. TRIPI:**

10:04AM 20 Q. So, obviously, the way it's sitting there, it's upside
10:04AM 21 down. Usually, is that a light that's hanging and the plants
10:05AM 22 are under it?

10:05AM 23 A. Correct.

10:05AM 24 **MR. TRIPI:** I'm going to hold it in a manner that the
10:05AM 25 jury can see it, Your Honor.

10:06AM

1 BY MR. TRIPI:

2 Q. Next I'm going to hand you up Government Exhibit 205,
3 okay?

4 A. Yeah.

5 Q. Do you recognize Government Exhibit 205?

6 A. Yes.

7 Q. What is that?

8 A. That was the box for the grow lamp.

9 Q. Can you repeat that again?

10 A. It was the box for the grow lamp, the 1000 watt grow
11 lamp.

12 Q. And is that another item that was seized from your
13 residence on August 23rd, 2019?

14 A. It was.

15 Q. Is it in the same -- is the box at least in the same, or
16 substantially same condition as when it was in your house?

17 A. Yes.

18 MR. TRIPI: The government offers Government
19 Exhibit 205, Your Honor. I've shown it to counsel.

20 MR. SINGER: No objection.

21 THE COURT: Received without objection.

22 (GOV Exhibit 205 was received in evidence.)

23 BY MR. TRIPI:

24 Q. Next I'm going to hand you up Government Exhibit 204. Do
25 you recognize Government Exhibit 204?

10:07AM 1 A. I do.

10:07AM 2 Q. What is that?

10:07AM 3 A. It's an aqua pump for the cloning process. It goes in

10:07AM 4 the cloning machine. And it pumps and helps the water spray

10:08AM 5 up to the bottom so the plants could root.

10:08AM 6 Q. Is that pump, Government Exhibit 204, is that a pump that

10:08AM 7 was seized from your residence by HSI on August 23rd, 2019?

10:08AM 8 A. Yes, it was.

10:08AM 9 Q. Is it in the same or substantially same condition today

10:08AM 10 as when it was taken from your home?

10:08AM 11 A. Yes.

10:08AM 12 **MR. TRIPI:** Showing it to counsel, Your Honor.

10:08AM 13 I've shown it to counsel.

10:08AM 14 The government offers Exhibit 204, Your Honor.

10:08AM 15 **MR. SINGER:** No objection.

10:08AM 16 **THE COURT:** Received without objection.

10:08AM 17 **(GOV Exhibit 204 was received in evidence.)**

10:08AM 18 **BY MR. TRIPI:**

10:08AM 19 Q. Now I notice the pump is in the box, Mr. Selva, so I'm

10:09AM 20 going to open it up so that the jury can see it out of the

10:09AM 21 box, okay?

10:09AM 22 A. Sure.

10:09AM 23 Q. While 204 is being prepared for the jury to see it

10:09AM 24 better, I'm going to continue.

10:09AM 25 Next I'm going to hand you up Government Exhibit 203,

10:09AM 1 Mr. Selva.

10:09AM 2 A. Okay.

10:09AM 3 Q. Do you recognize Government Exhibit 203?

10:09AM 4 A. I do.

10:09AM 5 Q. What is Government Exhibit 203?

10:09AM 6 A. I believe this is a power supply to the ballast.

10:10AM 7 Q. Power supply --

10:10AM 8 A. Power supply for the ballast where the bulb was.

10:10AM 9 Q. Okay. Is that power supply in the same or substantially

10:10AM 10 same condition today as when it was removed from your house

10:10AM 11 by law enforcement?

10:10AM 12 A. It is.

10:10AM 13 Q. And I'm going to hand you up Government Exhibit 202, as

10:10AM 14 well. Please inspect Government Exhibit 202. When you're

10:10AM 15 done, look up.

10:10AM 16 Do you recognize Exhibit 202?

10:10AM 17 A. I do.

10:10AM 18 Q. What do you recognize that to be?

10:10AM 19 A. That was a scale.

10:10AM 20 Q. What was that used for?

10:10AM 21 A. To weigh after it was cut down and ready to process.

10:10AM 22 Q. And is Government Exhibit 202 the scale, a scale that was

10:10AM 23 removed from your home?

10:10AM 24 A. It was.

10:10AM 25 Q. Is it in the same or substantially same condition today

10:10AM 1 as when you last saw it when it was at your house?

10:11AM 2 A. Yes.

10:11AM 3 **MR. TRIPI:** I'm going to show Exhibits 202 and 203 to
10:11AM 4 counsel, Your Honor.

10:11AM 5 The government offers Exhibits 202 and 203,
10:11AM 6 Your Honor. I've shown them to counsel.

10:11AM 7 **MR. SINGER:** No objection to 202 or 203.

10:11AM 8 **THE COURT:** 202 and 203 are received without
10:11AM 9 objection.

10:11AM 10 **(GOV Exhibits 202 and 203 were received in evidence.)**

10:11AM 11 **MR. TRIPI:** I'm now going to publish them for the
10:11AM 12 jury. Just hold them up for them.

10:11AM 13 Your Honor, 202 is in my right hand, 203 is in my
10:11AM 14 left hand.

10:11AM 15 I'm now going to publish 204, Your Honor. It's out
10:12AM 16 of the box so they can see it.

10:12AM 17 **BY MR. TRIPI:**

10:12AM 18 Q. Now, although not here, you also had firearms in your
10:12AM 19 house that were seized by law enforcement; is that correct?

10:12AM 20 A. Yes.

10:12AM 21 Q. What firearms did you have seized that day?

10:12AM 22 A. A .22 rifle, and a Mossburg shotgun pistol grip, 12 gauge
10:12AM 23 shotgun.

10:12AM 24 Q. Now, I'd like to switch gears, I'd like to go back to in
10:13AM 25 or about 2014. Okay?

10:13AM 1 Did there come a point in time when you helped arrange a
10:13AM 2 stag party for the defendant before he married his wife,
10:13AM 3 Lindsay?

10:13AM 4 A. Yes.

10:13AM 5 Q. Describe for the jury, what was your role in organizing,
10:13AM 6 if any, what was your role in organizing the stag?

10:13AM 7 A. Secure the location, we had it at the Iron Works

10:13AM 8 downtown. And work the front door, and greet the people as
10:13AM 9 they came in.

10:13AM 10 Q. Were tickets sold?

10:13AM 11 A. Yes.

10:13AM 12 Q. Who were the ticket sellers?

10:14AM 13 A. Myself. There were a lot of tickets out there. I
10:14AM 14 believe members of Joe's family. Two of my cousins. That's
10:14AM 15 all I could recall.

10:14AM 16 Q. Who secured the location at Buffalo Iron Works?

10:14AM 17 A. I did.

10:14AM 18 Q. How did you do that?

10:14AM 19 A. I called the manager who I knew.

10:14AM 20 Q. And who was that manager?

10:14AM 21 A. Jeff Lang.

10:14AM 22 Q. Repeat that name, please?

10:14AM 23 A. Jeff Lang.

10:14AM 24 Q. And do you remember what month the stag party was in
10:14AM 25 2014?

10:14AM 1 A. It was before the wedding. I think January, January or
10:14AM 2 December, I don't recall.

10:14AM 3 Q. So it's either December or January before the wedding,
10:15AM 4 which is in February?

10:15AM 5 A. Yes.

10:15AM 6 Q. Okay. And the wedding, just for time reference, was
10:15AM 7 February of 2015?

10:15AM 8 A. Yes.

10:15AM 9 Q. You said you collected tickets. Did anyone help you
10:15AM 10 collect tickets at the door for the stag?

10:15AM 11 A. Yes.

10:15AM 12 Q. Who did?

10:15AM 13 A. Myself. I believe his brother-in-law at the time, Tom
10:15AM 14 Napoli. And Victor Sorrento, a friend of ours.

10:15AM 15 Q. Were any of the people that you've been talking about
10:15AM 16 during the course of your testimony between yesterday and
10:15AM 17 today, were any of those people at the stag?

10:15AM 18 A. I believe so, yes.

10:15AM 19 Q. Who was at the stag?

10:15AM 20 A. Mike Masecchia was. I believe Wayne Anderson. Ron was
10:15AM 21 not. Ron Serio was not there.

10:16AM 22 Q. Do you know whether he bought a ticket?

10:16AM 23 A. I don't. I don't know if he bought or ticket or not.

10:16AM 24 Q. Okay. Who else?

10:16AM 25 A. It was a long time ago. I think J.D. was there, too.

10:16AM 1 Q. J.D., the person he told --

10:16AM 2 A. Yes.

10:16AM 3 Q. -- that he talked about as being an informant?

10:16AM 4 A. Yes.

10:16AM 5 Q. Were tickets sold at that Fitness Factory gym?

10:16AM 6 A. Yes.

10:16AM 7 Q. Do you recall any other names as you sit here today who
10:16AM 8 were at the stag party?

10:16AM 9 A. I believe from the gym?

10:16AM 10 Q. No, just generally.

10:16AM 11 A. Friend Mike Piazza was there. Like I mentioned, Victor
10:16AM 12 Sorrento. Ray Castiglione. That's all I can recall.

10:16AM 13 Q. Would you like something to refresh your recollection?

10:17AM 14 A. Yes, please.

10:17AM 15 **MR. TRIPI:** One moment, please, Your Honor.

10:17AM 16 I'm going to show the witness Government
10:18AM 17 Exhibit 3540M at page 3.

10:18AM 18 **BY MR. TRIPI:**

10:18AM 19 Q. Mr. Selva, if you can please read page 3 to yourself and
10:18AM 20 when you're done, please look up.

10:19AM 21 A. Okay.

10:19AM 22 Q. I've removed the document. Did that refresh your
10:19AM 23 recollection as to any other names of people who were there?

10:19AM 24 A. Yes.

10:19AM 25 Q. Can you tell the jury any more names of people that you

10:19AM 1 recall being there?

10:19AM 2 A. Tom Doctor. Joe Palmieri. Samir Rizek.

10:19AM 3 Q. Any other names?

10:19AM 4 A. Peter Gerace.

10:19AM 5 Q. Did you know who Joe Palmieri was?

10:19AM 6 A. Yes.

10:19AM 7 Q. Had you met him before?

10:19AM 8 A. Yes.

10:19AM 9 Q. Who was Joe Palmieri.

10:19AM 10 A. He worked with Joe at the DEA.

10:19AM 11 Q. Had you ever socialized with both of them before?

10:20AM 12 A. When I've met Joe out, Joe would be with him a lot of the
10:20AM 13 times.

10:20AM 14 Q. Okay. We've got two Joes, so let's use last names.

10:20AM 15 A. When I met the defendant Joseph Bongiovanni, he would be
10:20AM 16 with Joe Palmieri a lot.

10:20AM 17 Q. Where have you met them out?

10:20AM 18 A. Different bars. Mother's. Anywhere downtown on
10:20AM 19 Chippewa.

10:20AM 20 Q. So you've gone drinking with the defendant and with his
10:20AM 21 partner?

10:20AM 22 A. Yes, after hours. Late at night, yes.

10:20AM 23 Q. What did you understand the relationship between the two
10:20AM 24 of them to be?

10:20AM 25 A. They worked together.

10:20AM 1 Q. At the DEA?

10:20AM 2 A. Yes.

10:20AM 3 Q. Yesterday you talked about Tom Doctor and Mickey Rats; do

10:21AM 4 you remember that testimony?

10:21AM 5 A. Yes.

10:21AM 6 Q. Was there -- when was that? What month, what day, was

10:21AM 7 there a date of significance?

10:21AM 8 A. July of, maybe, 2015 or '16, that time frame.

10:21AM 9 Q. As you understood it, did Mr. Doctor have, like, an

10:21AM 10 annual party around the Fourth of July?

10:21AM 11 A. Yes, I've heard he did, yes.

10:21AM 12 Q. I'd like to direct your attention to January of 2019.

10:22AM 13 Okay? Did there come a time where you learned that Mike -- a

10:22AM 14 person named Michael Sinatra's house had been searched by law

10:22AM 15 enforcement?

10:22AM 16 A. Yes.

10:22AM 17 Q. Who did you learn that from?

10:22AM 18 A. From the defendant, Joe.

10:22AM 19 Q. And just a little context, do you know who Michael

10:22AM 20 Sinatra is as it relates to the defendant?

10:22AM 21 A. Just a friend. I didn't -- he did landscaping for him.

10:22AM 22 Q. How long had they known each other as you understood it?

10:22AM 23 A. I believe not long. Maybe five years, four years, I'm

10:23AM 24 not quite sure.

10:23AM 25 Q. Okay. How did -- how did the topic of Sinatra's house

10:23AM 1 being searched by law enforcement come up?

10:23AM 2 A. He had just done some landscaping work for Joe at his
10:23AM 3 house prior to that. This, yeah, it was -- he did some
10:23AM 4 landscaping work for him, that's how it came up.

10:23AM 5 Q. Describe the conversation.

10:23AM 6 A. He had said that --

10:23AM 7 Q. Who?

10:23AM 8 A. -- Mike Sinatra --

10:23AM 9 Q. Yeah, if you can please use names.

10:23AM 10 A. I apologize. The defendant, Joe, had said that Mike
10:23AM 11 Sinatra had just done some landscaping work for him at his
10:23AM 12 house, and he was arrested.

10:23AM 13 Q. Did he express any concerns as it related to that arrest?

10:23AM 14 A. No.

10:25AM 15 **MR. TRIPI:** Sorry for the delay, Your Honor.

10:25AM 16 **THE COURT:** That's okay.

10:25AM 17 **BY MR. TRIPI:**

10:26AM 18 Q. Mr. Selva, you proffered with the government on
10:26AM 19 October 1st, 2019?

10:26AM 20 A. Correct.

10:26AM 21 **MR. TRIPI:** Judge, I'm proceeding under Rule 607
10:26AM 22 right now.

10:26AM 23 **BY MR. TRIPI:**

10:26AM 24 Q. On October 1st, 2019, you proffered with the government,
10:26AM 25 and you were asked questions about the search warrant

10:26AM 1 executed at Michael Sinatra's residence, correct?

10:26AM 2 A. Correct.

10:26AM 3 Q. And during that proffer meeting, you make statements
10:26AM 4 regarding what Bongiovanni had said about Michael Sinatra's
10:26AM 5 raid, correct?

10:26AM 6 A. Correct.

10:26AM 7 Q. And on that date, did you say that Bongiovanni told you
10:26AM 8 he was worried about Sinatra's home getting raided because it
10:26AM 9 could come back on Bongiovanni, however Bongiovanni said you
10:26AM 10 had nothing to worry about?

10:26AM 11 A. That's correct.

10:26AM 12 Q. Is that what you said?

10:27AM 13 A. That's what I said.

10:27AM 14 Q. Okay. Did you just not recall that?

10:27AM 15 A. I did not recall it, yes.

10:27AM 16 Q. Okay. Is that what happened?

10:27AM 17 A. It did, yes.

10:27AM 18 Q. Now can you describe that conversation for the jury,
10:27AM 19 please?

10:27AM 20 A. Yes. When Mike had gotten -- Sinatra had gotten raided,
10:27AM 21 the defendant had said that he was hoping that nothing would
10:27AM 22 come back on him, but it shouldn't concern me.

10:27AM 23 Q. And when you say raided in the context of Michael
10:27AM 24 Sinatra, what's your understanding of what that entailed?

10:27AM 25 A. His house was -- what happened to my house with law

10:27AM 1 enforcement executing a search warrant and coming in.

10:27AM 2 Q. But your search warrant happened later?

10:27AM 3 A. It happened, yes. I should have clarified that.

10:28AM 4 Q. Now, after the bribes that you testified started, did the
10:28AM 5 defendant make some purchases?

10:28AM 6 A. Yes.

10:28AM 7 Q. What were some things you remember him purchasing after
10:28AM 8 those bribes started?

10:28AM 9 A. He bought a classic car. Did work on his home.

10:28AM 10 Furniture for the house.

10:28AM 11 Q. Did he purchase a home?

10:28AM 12 A. He purchased a home in Tonawanda.

10:28AM 13 Q. Where?

10:28AM 14 A. On Alder Place.

10:28AM 15 Q. Are you saying Alder Place?

10:28AM 16 A. Alder Place.

10:28AM 17 **MR. TRIPI:** If we can show to Mr. Selva only
10:28AM 18 Government Exhibit 109AB.

10:28AM 19 **BY MR. TRIPI:**

10:29AM 20 Q. Do you recognize that?

10:29AM 21 A. Yes.

10:29AM 22 Q. What do you recognize that to be?

10:29AM 23 A. It's a classic Buick that Joe had purchased.

10:29AM 24 Q. And how do you recognize it to be a Buick that the
10:29AM 25 defendant purchased?

10:29AM 1 A. He's in it, and I've been in it with him. And that's
10:29AM 2 him.

10:29AM 3 Q. Did you happen to take that picture?

10:29AM 4 A. And I took the picture, yes.

10:29AM 5 Q. Does that fairly and accurately depict the Buick that the
10:29AM 6 defendant bought after -- at some point after this monetary
10:29AM 7 arrangement started?

10:29AM 8 A. Yes.

10:29AM 9 **MR. TRIPI:** The government offers Exhibit 109AB,
10:29AM 10 Your Honor.

10:29AM 11 **MR. SINGER:** No objection.

10:29AM 12 **THE COURT:** Received without objection.

10:29AM 13 **(GOV Exhibit 109AB was received in evidence.)**

10:29AM 14 **BY MR. TRIPI:**

10:29AM 15 Q. Now, after he -- when he first bought that vehicle, did
10:29AM 16 you have an opportunity to first see the vehicle?

10:29AM 17 A. I did, yes.

10:29AM 18 Q. Okay. Was this a vehicle the defendant worked on?

10:30AM 19 A. He had people work on it, yes.

10:30AM 20 Q. As it compared to when he first bought it to how it
10:30AM 21 appears in this photo, were any changes or modifications made
10:30AM 22 to the vehicle?

10:30AM 23 A. I believe paint, some chrome accessories on the exterior.
10:30AM 24 Some interior work, as well.

10:30AM 25 Q. And what -- when you say he had people work on the

10:30AM 1 vehicle, what were you referencing?

10:30AM 2 A. Meaning people that were restoring the vehicle, making it

10:30AM 3 look more pristine.

10:30AM 4 Q. Look at the photo next to you. What, if anything, can

10:30AM 5 you tell the jury about the bumper?

10:30AM 6 A. The bumper, I believe, is new. It is new. Restored.

10:31AM 7 Q. What, if anything, can you tell the jury about the paint?

10:31AM 8 A. The paint is new, as well. It was repainted.

10:31AM 9 **MR. TRIPI:** Okay. We can take that photo down,

10:31AM 10 Ms. Champoux.

10:31AM 11 For the witness only, can we bring up Government

10:31AM 12 Exhibit 103-2.

10:31AM 13 **BY MR. TRIPI:**

10:31AM 14 Q. Do you see that on your screen next to you, Mr. Selva?

10:31AM 15 A. I do.

10:31AM 16 Q. Do you recognize Government Exhibit 103-2?

10:31AM 17 A. Yes.

10:31AM 18 Q. What do you recognize that to be?

10:31AM 19 A. That's the inside of the defendant's house.

10:31AM 20 Q. What portion of the inside of his house?

10:31AM 21 A. When you -- the entrance when you walk in. It's a wide

10:31AM 22 open area, the kitchen.

10:31AM 23 Q. And which house is that?

10:31AM 24 A. On Alder.

10:31AM 25 Q. And when did -- approximately when did he purchase the

10:31AM 1 Alder Place house in Tonawanda?

10:31AM 2 A. 2012. I'm not quite sure.

10:32AM 3 Q. Was it before or after he was married?

10:32AM 4 A. It was before.

10:32AM 5 Q. And did you observe the house when he first purchased it?

10:32AM 6 A. Yes.

10:32AM 7 Q. Did you observe the house over time?

10:32AM 8 A. Yes.

10:32AM 9 Q. Were there any changes you observed to that house over

10:32AM 10 time?

10:32AM 11 A. Interior upgrades, paint, floor redone. I believe he

10:32AM 12 added an island in the middle of the house.

10:32AM 13 Q. Does this photograph regarding this portion of the house

10:32AM 14 fairly and accurately depict how it appeared after work was

10:32AM 15 done to it?

10:32AM 16 A. Yes.

10:32AM 17 Q. Okay.

10:32AM 18 **MR. TRIPI:** Judge, the government offers

10:32AM 19 Exhibit 103-2.

10:32AM 20 **MR. SINGER:** No objection.

10:32AM 21 **THE COURT:** Received without objection.

10:32AM 22 **(GOV Exhibit 103-2 was received in evidence.)**

10:32AM 23 **BY MR. TRIPI:**

10:32AM 24 Q. In this photo, what can you tell the jury was new to the

10:32AM 25 house after the defendant took over that property.

10:32AM 1 And if you need to, it's like a tele strator, you can
10:32AM 2 circle things with your finger on the screen to help the jury
10:33AM 3 out.

10:33AM 4 A. The paint. The floors were redone. The island.

10:33AM 5 Q. When you say "the island" --

10:33AM 6 A. The middle.

10:33AM 7 Q. -- can you circle that for the jury? That was added?

10:33AM 8 A. I believe so, yes.

10:33AM 9 **MR. TRIPI:** Judge, may the record reflect, although
10:33AM 10 this is not permanent marking, the witness made a circle
10:33AM 11 around the very center of the photo where there appears to be
10:33AM 12 an island in the kitchen area.

10:33AM 13 **THE COURT:** Yeah, I think that's correct.

10:33AM 14 **MR. TRIPI:** Okay.

10:33AM 15 **THE CLERK:** I can clear it.

10:33AM 16 **MR. TRIPI:** Thank you very much.

10:33AM 17 **THE CLERK:** You're all set.

10:33AM 18 **MR. TRIPI:** Now for the witness only, can we take
10:33AM 19 that one down, and Ms. Champoux can we show 103-3.

10:33AM 20 **BY MR. TRIPI:**

10:33AM 21 Q. Do you see 103-3 on your screen, Mr. Selva?

10:34AM 22 A. Yes.

10:34AM 23 Q. What do you recognize that to be?

10:34AM 24 A. That's the living room area of the defendant's house.

10:34AM 25 Q. And is that the living room area before or after he took

10:34AM 1 over that property?

10:34AM 2 A. After.

10:34AM 3 Q. And does that fairly and accurately depict how that
10:34AM 4 living room area appeared after he obtained the property and
10:34AM 5 started to improve it?

10:34AM 6 A. Yes.

10:34AM 7 **MR. TRIPI:** The government offers Exhibit 103-3,

10:34AM 8 Your Honor.

10:34AM 9 **MR. SINGER:** No objection.

10:34AM 10 **THE COURT:** Received without objection.

10:32AM 11 **(GOV Exhibit 103-3 was received in evidence.)**

10:32AM 12 **MR. TRIPI:** If we can publish that?

10:34AM 13 **BY MR. TRIPI:**

10:34AM 14 Q. What years, and again if you can show the jury touching
10:34AM 15 the screen, what areas were changed or modified after he
10:34AM 16 bought the house?

10:34AM 17 A. The furniture. The carpet. Basically just cosmetics.

10:35AM 18 The furniture and carpet, and that's it.

10:35AM 19 Q. Was that -- was that a hardwood floor?

10:35AM 20 A. That's a hardwood floor.

10:35AM 21 Q. Do you know whether or not that was redone?

10:35AM 22 A. The whole area was redone, because it was one big open
10:35AM 23 area.

10:35AM 24 **MR. TRIPI:** Your Honor may the record reflect the
10:35AM 25 witness has made several circles on pieces of furniture, as

10:35AM 1 well as carpet area.

10:35AM 2 **THE COURT:** He circled -- appears to be a television
10:35AM 3 set, carpet, a chair, and the table and some vases on the
10:35AM 4 table.

10:35AM 5 **MR. TRIPI:** Thank you, Your Honor.

10:35AM 6 We can take that down, Ms. Champoux. We can clear
10:35AM 7 that.

10:35AM 8 One moment, Your Honor.

10:36AM 9 For the witness only, can we show Government
10:36AM 10 Exhibit 523 and 524 next to each other?

10:37AM 11 **BY MR. TRIPI:**

10:37AM 12 Q. Mr. Selva, starting with Exhibit 523, do you recognize
10:37AM 13 that?

10:37AM 14 A. Yes.

10:37AM 15 Q. What do you recognize that to be?

10:37AM 16 A. It's the exterior of the Alder Place home.

10:37AM 17 Q. Is that a photo of how it appeared before or after the
10:37AM 18 defendant took it over?

10:37AM 19 A. I believe right when he took it over, so yes.

10:37AM 20 Q. Okay. And does that fairly and accurately depict to the
10:37AM 21 best of your ability how the outside of the property appeared
10:37AM 22 around when the defendant took it over?

10:37AM 23 A. Yes.

10:37AM 24 Q. Now looking at Exhibit 524, the image on the right, do
10:37AM 25 you recognize that?

10:37AM 1 A. Yes.

10:37AM 2 Q. And what is that?

10:37AM 3 A. Again, it's the exterior of the house on Aldridge Place
10:37AM 4 (sic) with new garage door, some landscaping, and I believe a
10:37AM 5 new front door as well.

10:37AM 6 Q. Is the image on the right, does it fairly and accurately
10:37AM 7 depict how the front of the residence including the
10:38AM 8 landscaping looked after the defendant started making
10:38AM 9 improvements?

10:38AM 10 A. Yes.

10:38AM 11 **MR. TRIPI:** Okay. The government offers Exhibit 523
10:38AM 12 and 524, Your Honor.

10:38AM 13 **MR. SINGER:** Just one moment, Judge. No objection.

10:38AM 14 **THE COURT:** They are received without objection.

10:38AM 15 **(GOV Exhibits 523 and 524 were received in evidence.)**

10:38AM 16 **MR. TRIPI:** Thank you. Ms. Champoux, if we can
10:38AM 17 publish them the way they appear on the screens.

10:38AM 18 **BY MR. TRIPI:**

10:38AM 19 Q. And did you indicate there was a garage door that was
10:38AM 20 updated?

10:38AM 21 A. Yes.

10:38AM 22 Q. And describe the landscaping changes.

10:38AM 23 A. New shrubs, flowers. I believe the grass was resodded,
10:38AM 24 as well.

10:38AM 25 Q. And do you know who the defendant's landscaper was for

10:38AM 1 that?

10:38AM 2 A. Yes.

10:38AM 3 Q. Who was that?

10:38AM 4 A. Mike Sinatra.

10:38AM 5 Q. So, did the defendant own two residences after he
10:39AM 6 purchased this -- this address, this location?

10:39AM 7 A. He did. I believe he still held on to Lovering.

10:39AM 8 Q. Is that 221 Lovering?

10:39AM 9 A. 221 Lovering.

10:39AM 10 Q. After -- after he was married, did the defendant make any
10:39AM 11 other purchases that were associated with the timing of
10:39AM 12 moving into the Alder house?

10:39AM 13 A. Not that I recall.

10:39AM 14 Q. Did they buy a dog?

10:39AM 15 A. Yes, they had a dog.

10:39AM 16 **MR. TRIPI:** Can we take those down? Thank you.

10:39AM 17 **BY MR. TRIPI:**

10:40AM 18 Q. Now I'd like to bring you forward in time to
10:40AM 19 approximately --

10:40AM 20 **MR. TRIPI:** Judge, I'm moving to another area. Do
10:40AM 21 you want to take your break now, or do you want me to keep
10:40AM 22 going?

10:40AM 23 **THE COURT:** How much longer do you think you have,
10:40AM 24 Mr. Tripi?

10:40AM 25 **MR. TRIPI:** I'll probably be done in about an hour or

10:40AM 1 less, total.

10:40AM 2 **THE COURT:** Okay. I'd like to wait, because I have a
10:40AM 3 matter that I need to do at 1:00, so I'd like to break for
10:40AM 4 lunch around 12:30.

10:40AM 5 **MR. TRIPI:** Okay.

10:40AM 6 **THE COURT:** Okay. So, I'd like to go until about
10:40AM 7 11:00 now.

10:40AM 8 **MR. TRIPI:** That's fine.

10:40AM 9 **THE COURT:** Break then, and then we'll go until
10:40AM 10 12:30.

10:40AM 11 **MR. TRIPI:** No problem, Your Honor.

10:40AM 12 **BY MR. TRIPI:**

10:40AM 13 Q. I'd like to direct your attention forward in time to
10:40AM 14 about April 18th, 2017. Okay?

10:40AM 15 A. Okay.

10:40AM 16 Q. Around that time, did you learn that Ron Serio had been
10:40AM 17 arrested?

10:40AM 18 A. Yes.

10:40AM 19 Q. How did you learn Ron Serio had been arrested?

10:40AM 20 A. I was told by Mike, and then word got out that he been
10:40AM 21 arrested.

10:40AM 22 Q. How did Masecchia tell you?

10:40AM 23 A. He said Greenie got arrested.

10:41AM 24 Q. Well, did he call you?

10:41AM 25 A. He called me. He actually says I want to stop by. And

10:41AM 1 he stopped by my residence. And he told me Ron, Greenie, had
10:41AM 2 been busted, arrested.

10:41AM 3 Q. So Masecchia came over to your house?

10:41AM 4 A. Yes.

10:41AM 5 Q. And can you elaborate on the conversation other than
10:41AM 6 Greenie or Ron had been busted, what, if anything, did he
10:41AM 7 say?

10:41AM 8 A. He just said that he was concerned now with the
10:41AM 9 arrangement with Joe that he had been arrested.

10:41AM 10 Q. What did you say?

10:41AM 11 A. I was concerned as well. I says, I don't think we have
10:41AM 12 anything to worry about.

10:41AM 13 Q. What made you say that?

10:41AM 14 A. I was just confident.

10:41AM 15 Q. In what?

10:41AM 16 A. In that nothing would happen regarding us.

10:41AM 17 Q. Why?

10:41AM 18 A. Because I felt that Joe had our backs still.

10:42AM 19 Q. So you felt Joe had your and Mike's backs still?

10:42AM 20 A. Yes.

10:42AM 21 Q. Did you have any discussions with Masecchia about finding
10:42AM 22 out more details?

10:42AM 23 A. I did.

10:42AM 24 Q. Describe that.

10:42AM 25 A. I says I'll ask Joe if there are more details regarding

10:42AM 1 this investigation, what happened with Ron, if anyone has to
10:42AM 2 worry.

10:42AM 3 Q. What did Mike say?

10:42AM 4 A. He encouraged it. So I said, all right, I'll reach out
10:42AM 5 to him. The sooner you could find out, the better.

10:42AM 6 Q. Now, were you still using the cell phone number you
10:42AM 7 provided yesterday, 716-903-1654?

10:42AM 8 A. Yes.

10:42AM 9 Q. And is that a number that you up until HSI searched your
10:42AM 10 house?

10:42AM 11 A. It is.

10:42AM 12 Q. So you owned that phone number until August 23rd, 2019?

10:43AM 13 A. Correct.

10:43AM 14 Q. And how did you get in touch with the defendant?

10:43AM 15 A. I called him from that number.

10:43AM 16 Q. Did you call him to the phone number you had for him for
10:43AM 17 a long time?

10:43AM 18 A. Yes.

10:43AM 19 Q. Do you remember that phone number offhand?

10:43AM 20 A. 716-818-0996.

10:43AM 21 Q. Okay. If I said 0966, would that ring a bell?

10:43AM 22 A. Correct, I'm sorry, I mixed it up.

10:43AM 23 Q. As you understood it, how long had the defendant had that
10:43AM 24 phone number?

10:43AM 25 A. Since he had come back to Buffalo. Relocated from

10:43AM 1 Florida with the DEA.

10:43AM 2 **MR. TRIPI:** Okay. Ms. Champoux, I'm going to ask you
10:43AM 3 to pull up in evidence pursuant to stipulation Government
10:43AM 4 Exhibit 358, phone records for 716-818-0966, I'm going to ask
10:44AM 5 you to go to the pdf at page 443, Ms. Champoux.

10:44AM 6 **THE COURT:** So I have admitted this?

10:44AM 7 **MR. TRIPI:** You have, during the stipulations --

10:44AM 8 **THE COURT:** Okay.

10:44AM 9 **MR. TRIPI:** -- these came in.

10:44AM 10 **MR. COOPER:** Court Exhibit 2.

10:44AM 11 **MR. TRIPI:** But the substantive exhibit is 358.

10:44AM 12 And, Ms. Champoux, can you go down to April 19th, all
10:44AM 13 10:47 a.m., and highlight that for the jury. 10:47 a.m.,
10:44AM 14 right here.

10:44AM 15 **BY MR. TRIPI:**

10:44AM 16 Q. Is -- do you see the -- do you see that on your screen,
10:44AM 17 Mr. Selva?

10:44AM 18 A. Yes.

10:44AM 19 Q. Is that your phone number?

10:44AM 20 A. It is.

10:45AM 21 Q. And did you call Mr. Bongiovanni within a day or so after
10:45AM 22 Serio's arrest?

10:45AM 23 A. I did.

10:45AM 24 Q. And would April 19th, 2017, be the day after you learned
10:45AM 25 of the arrest?

10:45AM 1 A. Yes.

10:45AM 2 Q. And when you got on the phone with the defendant, what
10:45AM 3 did you say?

10:45AM 4 A. I said I wanted to talk to him, I wanted to meet him in
10:45AM 5 person. It was a brief conversation.

10:45AM 6 Q. And what did he say?

10:45AM 7 A. He said okay. He was busy, but, we'll reach out later
10:45AM 8 and get together.

10:45AM 9 Q. And did you get together?

10:45AM 10 A. We did.

10:45AM 11 Q. Where did you get together?

10:45AM 12 A. I believe I stopped by his house.

10:45AM 13 Q. At where?

10:45AM 14 A. On Alder. On Alder Place.

10:45AM 15 Q. Describe what happened at that point.

10:45AM 16 A. We had the conversation about Ron Serio getting arrested.

10:45AM 17 Q. Who was present for the conversation?

10:45AM 18 A. Just myself and Joe.

10:45AM 19 Q. Where in his house or where in proximity of his house was
10:46AM 20 the conversation?

10:46AM 21 A. In his living room, right by the kitchen.

10:46AM 22 Q. Was anyone else around?

10:46AM 23 A. No, we were alone.

10:46AM 24 Q. Was anyone else home?

10:46AM 25 A. No.

10:46AM 1 Q. Describe the conversation as best you can in your words
10:46AM 2 and in the defendant's words about Ron Serio being arrested.

10:46AM 3 A. He had told me that Ron had been arrested.

10:46AM 4 I was -- Mike and myself were concerned.

10:46AM 5 He said, I'll keep my eye out, not to worry, I'll do the
10:46AM 6 best I can.

10:46AM 7 Q. Was there more to it than that?

10:46AM 8 A. There was, but I don't recall at this --

10:48AM 9 **MR. TRIPI:** I'm going to show the witness Government
10:48AM 10 Exhibit 3540I. Mr. Singer, page 5.

10:48AM 11 **MR. SINGER:** I?

10:48AM 12 **MR. TRIPI:** I.

10:48AM 13 **MR. SINGER:** Thank you.

10:48AM 14 **MR. TRIPI:** You're welcome.

10:48AM 15 The record will reflect that I handed up the
10:48AM 16 document, turned it to the relevant page and indicated the
10:48AM 17 area of the paper for the witness to read.

10:48AM 18 **BY MR. TRIPI:**

10:48AM 19 Q. Take a moment, Mr. Selva, read that to yourself.

10:48AM 20 A. Okay.

10:48AM 21 Q. And when you're done, look up, and I'll take that back,
10:49AM 22 okay?

10:49AM 23 A. Okay. Okay.

10:50AM 24 **MR. TRIPI:** May the record reflect I removed the
10:50AM 25 exhibit from the witness.

10:50AM 1 BY MR. TRIPI:

10:50AM 2 Q. Mr. Selva, did that refresh your recollection as to an
10:50AM 3 additional conversation you had?

10:50AM 4 A. Yes.

10:50AM 5 Q. Can you describe that additional portion of the
10:50AM 6 conversation that you had with Defendant Bongiovanni after
10:50AM 7 Mr. Serio's arrest at 85 Alder Place, please?

10:50AM 8 A. Yes. He said, we rehearsed. He said stick to the story
10:50AM 9 we had rehearsed. He didn't want to have any tie with Ron.
10:50AM 10 Just stick to the story. And he want -- he had mentioned
10:50AM 11 that the -- Ron was arrested by the Erie County Sheriffs by
10:50AM 12 mistake -- or, excuse me, by the Erie County Sheriffs. And
10:50AM 13 just stick to the story.

10:50AM 14 Q. What did you mean by mistake? What did you mean by that?

10:50AM 15 A. That, I -- I didn't mean to say that, that was -- I
10:51AM 16 retract that.

10:51AM 17 Q. He said stick to the story we rehearsed. What story had
10:51AM 18 you rehearsed? Tell the jury that.

10:51AM 19 A. His involvement. If anything were to come about, he was
10:51AM 20 not involved. Just, he wanted to distance himself right
10:51AM 21 away.

10:51AM 22 Q. What, if anything, did Mr. Bongiovanni tell you about
10:51AM 23 what to say if you were approached by law enforcement?

10:51AM 24 A. To call him immediately, and we would go over it. He
10:51AM 25 would go over interviewing techniques with me, questions they

1 would ask me, that type thing.

2 Q. What, if anything, did he say about you being his
3 informant?

4 A. He had asked me at one point if I wanted to be an
5 informant.

6 Q. Was that part of story that he wanted you to tell?

7 A. It was.

8 Q. That's what I'm asking you. Can you explain that,
9 please?

10 A. If anything were to come about, and names were to come
11 up, I would be portraying myself as his informant.

12 Q. Was it your understanding that was part of the cover
13 story?

14 A. Yes, it was.

15 Q. In truth and in fact, you were not an informant?

16 A. I was not.

17 Q. What was the defendant's demeanor during that, during
18 that meeting that you had?

19 A. Nervous. Just wanted to make sure we were all in this,
20 him and I were on the same page.

21 Q. How many times after that did you meet to go over what
22 you should say if you were approached by law enforcement?

23 A. A few, three or four times.

24 Q. And where did you have those meetings?

25 A. His -- Joe's residence.

10:53AM 1 Q. And what did he -- describe those meetings for the jury.

10:53AM 2 A. Just prepping me, if I were to be approached or
10:53AM 3 apprehended or arrested, what to say. Types of questions
10:53AM 4 they would ask. And to say that I was informant for him, to
10:53AM 5 stick to that story.

10:53AM 6 Q. Did you ask the defendant why that was the story to stick
10:53AM 7 to?

10:53AM 8 A. Yes. To distance -- he wanted to distance himself from
10:54AM 9 any involvement if his name were to come up at all with Ron
10:54AM 10 being arrested.

10:54AM 11 Q. Was there any discussion of anything that Ron said after
10:54AM 12 Ron was arrested?

10:54AM 13 A. I believe when Ron got arrested, he asked for Joe in the
10:54AM 14 interview room.

10:54AM 15 Q. Did Joe talk about that with you?

10:54AM 16 A. Yes.

10:54AM 17 Q. What was that part of the discussion?

10:54AM 18 A. He had mentioned that when Ron got arrested, he had asked
10:54AM 19 for him in the interview room, and he was nervous about it.

10:54AM 20 Q. What did the defendant express to you about Ron asking
10:54AM 21 for him?

10:54AM 22 A. He was upset. And he, again, he just wanted to distance
10:54AM 23 himself. He didn't understand why Ron would ask for him in
10:54AM 24 the interview room.

10:54AM 25 Q. Did you ask the defendant what he would do if anyone

10:54AM 1 asked him about Ron?

10:54AM 2 A. I did.

10:54AM 3 Q. What did he say?

10:55AM 4 A. He was gonna distance himself and say that he did not
10:55AM 5 know him, and basically cover it up.

10:55AM 6 Q. Now, a few months after -- a few months after Mr. Serio's
10:55AM 7 arrest, did you have open-heart surgery?

10:55AM 8 A. I did.

10:55AM 9 Q. Do you take some medications relating to that?

10:55AM 10 A. I do.

10:55AM 11 Q. Daily?

10:55AM 12 A. Yes.

10:55AM 13 Q. Have you -- on the stand here, do those medications
10:55AM 14 affect you at all?

10:55AM 15 A. They do.

10:55AM 16 Q. How so?

10:55AM 17 A. Tired. Fatigued. Sometimes I get a little cloudy with
10:55AM 18 my -- when I'm speaking. That type thing.

10:55AM 19 Q. Are you here telling the truth?

10:55AM 20 A. I am, yes.

10:55AM 21 Q. Are you testifying from your memory to the best of your
10:56AM 22 ability?

10:56AM 23 A. I am, yes.

10:56AM 24 Q. Now, did you have a benefit stemming from your open-heart
10:56AM 25 surgery?

10:56AM 1 A. I did.

10:56AM 2 Q. Where was your benefit?

10:56AM 3 A. At the Knights of Columbus on Kenmore.

10:56AM 4 Q. Is that Kenmore Avenue?

10:56AM 5 A. Kenmore Avenue.

10:56AM 6 Q. In the Village of Kenmore?

10:56AM 7 A. In the Village of Kenmore. It might be on the Buffalo

10:56AM 8 border, I'm not sure.

10:56AM 9 Q. What was your benefit for?

10:56AM 10 A. To help with the expenses I incurred when I was

10:56AM 11 rehabilitating from open-heart surgery.

10:56AM 12 Q. Did you have friends of yours work the door at the

10:56AM 13 benefit?

10:56AM 14 A. Yes.

10:56AM 15 Q. Were tickets sold?

10:56AM 16 A. Yes.

10:56AM 17 Q. So at the door, tickets needed to be collected?

10:56AM 18 A. Correct.

10:56AM 19 Q. How many friends of yours did you have working the door?

10:56AM 20 A. Well, there was Joe, Mike, Victor Sorrento.

10:56AM 21 Q. Now, when you say Joe and Mike, who are you referring to?

10:57AM 22 A. The defendant and Michael Masecchia.

10:57AM 23 Q. So both of them worked the door to your benefit together?

10:57AM 24 A. Yes.

10:57AM 25 Q. Who were some other people that may be related to your

1 testimony that came to your benefit?

2 A. Ron came. Joe Tomasello. There were quite a few people
3 there. A lot of family. A lot of friends.

4 Q. Do you recall whether or not Wayne Anderson was there?

5 A. I was just gonna mention, Wayne was there.

6 Q. Now, Ron was arrested during that time. Did you make a
7 mistake there? You said Ron. Was Ron at your benefit?

8 A. I thought --

9 Q. Two months after you were -- two months after he was
10 arrested --

11 A. There were a lot of people there, I may have been
12 mistaken, I thought he was there.

13 Q. Okay.

14 A. There were a lot. I mean, I was --

15 Q. Do you remember seeing Ron after he was arrested in
16 April?

17 A. No.

18 Q. Okay.

19 **THE COURT:** Is this a good spot to break?

20 **MR. TRIPI:** It is, Your Honor.

21 **THE COURT:** Okay. So we will take our morning break
22 now. Please remember the instructions about not talking about
23 the case, and not making up your mind. See you back here at
24 about 11:15. And then we'll go until about 12:30 or so.

25 (Jury excused at 10:58 a.m.)

10:59AM 1 **THE COURT:** Okay. Anything we need to put on the
10:59AM 2 record?

10:59AM 3 **MR. TRIPI:** Nothing from the government, Your Honor.

10:59AM 4 **MR. SINGER:** Nothing from the defense, Judge, thanks.

10:59AM 5 **THE COURT:** Okay. We'll see you in about 15 minutes.

10:59AM 6 **THE CLERK:** All rise.

10:59AM 7 (Off the record at 10:59 a.m.)

11:19AM 8 (Back on the record at 11:19 a.m.)

11:19AM 9 (Jury not present.)

11:19AM 10 **THE CLERK:** All rise.

11:19AM 11 **THE COURT:** Please be seated.

11:19AM 12 **THE CLERK:** We are back on the record for the

11:19AM 13 continuation of the jury trial in case number 19-cr-227,

11:19AM 14 United States of America versus Joseph Bongiovanni.

11:19AM 15 All counsel and parties are present.

11:19AM 16 **THE COURT:** Okay. Ready to resume?

11:19AM 17 **MR. TRIPI:** Yes, Judge.

11:19AM 18 **MR. SINGER:** Yes, Your Honor.

11:19AM 19 **THE COURT:** Okay. Let's bring them in, please, Pat.

11:19AM 20 Mr. Tripi, you anticipate finishing during this
11:19AM 21 segment?

11:19AM 22 **MR. TRIPI:** I would hope so. That's the goal.

11:21AM 23 (Jury seated at 11:21 a.m.).

11:22AM 24 **MR. TRIPI:** The record will reflect all our jurors
11:22AM 25 are present.

11:22AM 1 I remind the witness that he's still under oath.

11:22AM 2 And, Mr. Tripi, you may continue.

11:22AM 3 **MR. TRIPI:** Thank you, Your Honor.

11:22AM 4 **BY MR. TRIPI:**

11:22AM 5 Q. Mr. Selva, earlier I had asked you about learning about
11:22AM 6 Michael Sinatra's search warrant; do you remember that?

11:22AM 7 A. Yes.

11:22AM 8 Q. Around that same time, did you also learn or hear about a
11:22AM 9 search warrant that was executed at Anthony Gerace's house?

11:22AM 10 A. Yes.

11:22AM 11 Q. How did you learn about that?

11:22AM 12 A. I'd heard that through, well, actually through Masecchia
11:22AM 13 that a search warrant was issued at Anthony Gerace's house.

11:22AM 14 Q. What did Masecchia say to you about that?

11:22AM 15 A. He said that Anthony had gotten pulled over, coming out
11:22AM 16 of -- leaving Ron's house, by an Erie County Sheriff car.

11:23AM 17 And I believe he had drugs on him. They held him. They got
11:23AM 18 a search warrant executed while they held him, and they
11:23AM 19 searched his house.

11:23AM 20 Q. Okay. So, at some point did you learn that Anthony
11:23AM 21 Gerace in 2019 had federal charges pending?

11:23AM 22 A. Yes.

11:23AM 23 Q. Were you in communication with the defendant when he
11:23AM 24 retired from the DEA in early 2019?

11:23AM 25 A. Yes.

11:23AM 1 Q. What -- what did he tell you, if anything, about his
11:23AM 2 retirement?

11:23AM 3 A. It happened abruptly. He just said he wanted out. He
11:23AM 4 wanted to distance himself from everything. And just
11:23AM 5 start -- go down to Florida and start a new life.

11:24AM 6 Q. Was -- did the defendant get into any details with you
11:24AM 7 about why he decided to retire when he did?

11:24AM 8 **MR. SINGER:** Your Honor, can we have a quick sidebar?

11:24AM 9 **THE COURT:** Sure.

11:24AM 10 (Sidebar discussion held on the record.)

11:24AM 11 **MR. SINGER:** So my concern about some of the
11:24AM 12 testimony I think that's about to be offered is that it starts
11:24AM 13 to get on the outer edges of the conspiracy. So, I guess one
11:24AM 14 of the concerns I have is that the statements that are being
11:24AM 15 made about retirement are not made in furtherance of the
11:24AM 16 conspiracy.

11:24AM 17 **THE COURT:** But they're the defendant's own
11:24AM 18 statements.

11:24AM 19 **MR. SINGER:** So, they are --

11:24AM 20 **THE COURT:** So if they were coconspirator statements,
11:24AM 21 I would agree with you, what you're saying, but they're the
11:24AM 22 defendant's own statements.

11:24AM 23 **MR. SINGER:** Yeah. I guess -- I know what Mr. Tripi
11:24AM 24 is asking about, his statements. I don't know what else we're
11:24AM 25 going to get into as far as other statements that were made by

11:24AM 1 Masecchia, or Serio, or -- that's why I just want to --

11:25AM 2 **THE COURT:** Yeah, they've got to be in furtherance if
11:25AM 3 it's a coconspirator.

11:25AM 4 **MR. SINGER:** Correct.

11:25AM 5 **THE COURT:** But I'm not so sure they do if it's the
11:25AM 6 defendant.

11:25AM 7 **MR. SINGER:** No, I agree. I just want to put the
11:25AM 8 Court on notice.

11:25AM 9 **THE COURT:** Yeah. Got it. Go ahead.

11:25AM 10 (End of sidebar discussion.)

11:25AM 11 **MR. TRIPI:** May I proceed, Your Honor?

11:25AM 12 **THE COURT:** You may, yeah, sure.

11:25AM 13 **BY MR. TRIPI:**

11:25AM 14 Q. When you were having -- just to restate my question maybe
11:25AM 15 a little differently. When you were discussing the
11:25AM 16 defendant's retirement with him, what if any statements did
11:25AM 17 he make to you about the situation at work?

11:25AM 18 A. He was worried that there possibly could be an
11:25AM 19 investigation looking at him, and he abruptly -- he wanted to
11:25AM 20 retire, like I mentioned earlier, and distance himself and
11:25AM 21 eventually move down to Florida.

11:25AM 22 Q. When -- when -- when speaking with the defendant, did you
11:25AM 23 ever hear him talk about a DEA special agent named Anthony
11:26AM 24 Casullo?

11:26AM 25 A. Yes.

11:26AM 1 Q. Okay. I'd like to get to that conversation. Where were
11:26AM 2 you when you discussed that with the defendant?

11:26AM 3 A. At his house.

11:26AM 4 Q. And describe that conversation for the jury, please.

11:26AM 5 A. I believe Anthony Casullo worked with him. He was a DEA
11:26AM 6 agent. And he had made reference against Joe regarding some
11:26AM 7 things that he's done with the DEA, and he wanted to distance
11:26AM 8 himself before any investigation would happen.

11:26AM 9 Q. As best you can, what were the defendant's words? As
11:26AM 10 best you can, tell the jury what the defendant said.

11:26AM 11 A. Well, he didn't -- he didn't care for Anthony Casullo.
11:26AM 12 He didn't like him. And he wanted to -- he wanted to
11:26AM 13 distance himself. He just wanted to retire and start over.

11:27AM 14 Q. Based upon what the defendant said to you and your
11:27AM 15 observations of him, did you form any opinions about whether
11:27AM 16 he was concerned about Casullo?

11:27AM 17 A. Yes.

11:27AM 18 Q. What was that opinion?

11:27AM 19 A. That Anthony Casullo had something over him, something
11:27AM 20 that could harm him in some way.

11:27AM 21 Q. What did the defendant say about retiring and starting
11:27AM 22 over, as you explained it?

11:27AM 23 A. He just wanted -- he wanted to retire, go down to Florida
11:27AM 24 eventually. Keep both places, and do the six months, six --
11:27AM 25 six months, six thing. Go down there for a while, and then

11:27AM 1 come back to Buffalo.

11:27AM 2 Q. After the defendant retired, was he looking for other
11:27AM 3 work?

11:27AM 4 A. Not that I know of.

11:27AM 5 Q. Well, where were you working at the time?

11:27AM 6 A. I was in sales, and I was also tending bar at Fanara's.

11:28AM 7 Q. Okay. So you tended bar?

11:28AM 8 A. I tended bar, yes.

11:28AM 9 Q. Did you have any discussions with the defendant about
11:28AM 10 getting him a job bartending?

11:28AM 11 A. Yes, at Fanara's.

11:28AM 12 Q. Describe those conversations for the jury.

11:28AM 13 A. Well, now that he was retired, I said I could -- I'll ask
11:28AM 14 the owner, Joe Fanara, because he had expressed an interest
11:28AM 15 in possibly doing something on a part-time basis.

11:28AM 16 I says, let me reach out to the owner and see if he needs
11:28AM 17 another bartender.

11:28AM 18 Q. As time went on, did there come a point in time where you
11:28AM 19 learned that the defendant's house -- that a search warrant
11:28AM 20 was executed at the defendant's house?

11:28AM 21 A. Yes.

11:28AM 22 Q. How did you learn that?

11:28AM 23 A. Actually, I heard through -- Joe didn't tell me, I heard
11:28AM 24 that it was raided. Actually, I believe Masecchia had
11:29AM 25 mentioned that he heard it, as well, and we had a

11:29AM 1 conversation about it.

11:29AM 2 Q. And so this is still prior to the search warrant at your
11:29AM 3 house?

11:29AM 4 A. Correct, it was before.

11:29AM 5 Q. And did you later become aware that the same day that
11:29AM 6 your house was searched, Masecchia was searched?

11:29AM 7 A. Yes.

11:29AM 8 Q. And that wasn't until August 23rd, 2019, correct?

11:29AM 9 A. That's correct.

11:29AM 10 Q. And the defendant's house was searched before that,
11:29AM 11 correct?

11:29AM 12 A. Correct.

11:29AM 13 Q. So describe your conversation with Masecchia regarding
11:29AM 14 the defendant's house being searched.

11:29AM 15 **MR. SINGER:** Objection.

11:29AM 16 **MR. TRIPI:** I believe we're within, as per the
11:29AM 17 indictment and the time frame, the last overt act is
11:29AM 18 August 23rd, 2019, Your Honor, so we're within the time frame
11:29AM 19 of the indictment.

11:29AM 20 **THE COURT:** I understand that. Why don't we come up?

11:29AM 21 **MR. TRIPI:** Sure.

11:30AM 22 (Sidebar discussion held on the record.)

11:30AM 23 **THE COURT:** So I'd like a little proffer as to why
11:30AM 24 this is in furtherance of the conspiracy and not simply
11:30AM 25 talking about the crime.

11:30AM 1 **MR. TRIPI:** Yes, Your Honor. So I think that we've
11:30AM 2 established that Selva, Masecchia, and Bongiovanni are in a
11:30AM 3 conspiracy.

11:30AM 4 **THE COURT:** I agree with that. I think you've
11:30AM 5 established it well enough for purposes of coconspirator
11:30AM 6 statements to come in.

11:30AM 7 **MR. TRIPI:** And I believe that statements made to --
11:30AM 8 as to the status of someone's investigation, or if
11:30AM 9 investigation is focused on one member of the conspiracy,
11:30AM 10 other members of the conspiracy meet to speak about it, that's
11:30AM 11 in furtherance of, because that involves planning,
11:30AM 12 coordinating, things of that nature.

11:30AM 13 As time unwinds, there may even be testimony if he
11:30AM 14 recalls it further explaining how him and Masecchia talked
11:30AM 15 about, much like Bongiovanni and Selva talked about, a cover
11:31AM 16 story, what their cover story would be. It's a little bit
11:31AM 17 different.

11:31AM 18 **THE COURT:** Mr. Singer?

11:31AM 19 **MR. TRIPI:** And I'll proffer further that that cover
11:31AM 20 story, if he can relay it, is going to be that Masecchia and
11:31AM 21 Selva talked about blaming Mark Falzone, who was a Serio
11:31AM 22 associate for some of it.

11:31AM 23 **MR. SINGER:** So I guess the second part, like, the
11:31AM 24 Falzone part of it, like, that's where I think we're starting
11:31AM 25 to get a little far afield, Judge.

11:31AM 1 **THE COURT:** Well, I think it's still part of the
11:31AM 2 conspiracy. So, we've got this conspiracy going on. One of
11:31AM 3 our guys just got arrested, or just had his house searched.
11:31AM 4 Now, what are we gonna do in order to keep us clean vis-à-vis
11:31AM 5 the guy whose house just got searched?

11:31AM 6 I think that's -- I think that's fair game. I think
11:31AM 7 that's still in furtherance of the conspiracy.

11:31AM 8 And if there's a -- and if there's a conversation
11:32AM 9 about what they decided to do, that is blame somebody else,
11:32AM 10 that's, I think, part of it.

11:32AM 11 Tell me why that's not part of the conspiracy?

11:32AM 12 **MR. SINGER:** So I guess, like, what Mr. Selva is
11:32AM 13 relaying in the first part that Mr. Tripi talked about are
11:32AM 14 conversations that are occurring between Masecchia and Selva
11:32AM 15 that have some involvement with Bongiovanni.

11:32AM 16 **THE COURT:** Yes.

11:32AM 17 **MR. SINGER:** And so, I mean, I agree, that's going to
11:32AM 18 be in furtherance of a conspiracy in some ways.

11:32AM 19 But when you start to get more and more divorced, and
11:32AM 20 you start to get into conversations that other people may be
11:32AM 21 having after search warrants occur --

11:32AM 22 **THE COURT:** I don't think we're talking about
11:32AM 23 conversations -- we're talking about Masecchia and Selva,
11:32AM 24 right?

11:32AM 25 **MR. TRIPI:** Yes.

11:32AM 1 **THE COURT:** And he's saying Masecchia and Selva came
11:32AM 2 up with this plan as to here's what we're gonna say if they
11:32AM 3 try to link us with Bongiovanni. Right?

11:32AM 4 **MR. TRIPI:** Yeah, link him with Serio.

11:32AM 5 **THE COURT:** Link him with Serio.

11:32AM 6 **MR. SINGER:** Link -- so I'm not following. So it's
11:32AM 7 these are conversations that Masecchia and Selva are having --

11:33AM 8 **MR. TRIPI:** First they discuss the search warrant at
11:33AM 9 Joe' house --

11:33AM 10 **MR. SINGER:** Yeah.

11:33AM 11 **MR. TRIPI:** -- and what happened. That's where we're
11:33AM 12 about to be.

11:33AM 13 **MR. SINGER:** Yeah.

11:33AM 14 **MR. TRIPI:** And then from there, I'll ask did you and
11:33AM 15 Masecchia eventually come up with a plan as to what to say if
11:33AM 16 approached.

11:33AM 17 And I anticipate that's where the Mark Falzone case
11:33AM 18 will come in.

11:33AM 19 **MR. SINGER:** Okay.

11:33AM 20 **THE COURT:** I think that's fair game, Mr. Singer.

11:33AM 21 You have an objection for the record, but I think it comes in.

11:33AM 22 **MR. SINGER:** No, I understand Judge.

11:33AM 23 (End of sidebar discussion.)

11:33AM 24 **THE COURT:** Why don't you ask another question,
11:33AM 25 Mr. Tripi?

11:33AM 1 **MR. TRIPI:** Yes, Your Honor.

11:33AM 2 **BY MR. TRIPI:**

11:33AM 3 Q. After Mr. Bongiovanni's house was searched, you indicated
11:33AM 4 a moment ago you learned that initially from Mike Masecchia?

11:34AM 5 A. Yes, we had a discussion about it.

11:34AM 6 Q. My next question is, where did you discuss that with
11:34AM 7 Masecchia?

11:34AM 8 A. He had stopped by.

11:34AM 9 Q. Stopped by where?

11:34AM 10 A. He had come by my house. He had just heard that the
11:34AM 11 defendant's house was executed a search warrant and raided.

11:34AM 12 Q. And did and you Masecchia have a discussion about the
11:34AM 13 fact that now the defendant's house had been searched?

11:34AM 14 A. Yes.

11:34AM 15 Q. Describe that conversation, as much detail as you can for
11:34AM 16 the jury.

11:34AM 17 A. Well, we had a conversation regarding the possibility of
11:34AM 18 everything being exposed and the whole operation coming out.

11:34AM 19 Everyone getting in trouble, myself, Mike, Ron, Joe,
11:34AM 20 everybody.

11:34AM 21 Q. In that discussion, or any discussion with Masecchia

11:34AM 22 after that, did you -- did you have a conversation about how
11:35AM 23 to deal with the fact that now Bongiovanni is clearly under
11:35AM 24 investigation, his house has been searched?

11:35AM 25 A. No, we were just gonna lay low between Mike and I, we

11:35AM 1 were gonna dismantle anything that was going on. I had
11:35AM 2 nothing in my house growing at that point, but I still had
11:35AM 3 equipment. But we were gonna lay low and distance ourselves.

11:35AM 4 Q. As time went on, did you and Masecchia have a
11:35AM 5 conversation about placing blame on someone else?

11:35AM 6 A. I don't recall that.

11:35AM 7 Q. Did you discuss Mark Falzone with Masecchia?

11:35AM 8 A. Yes.

11:35AM 9 Q. All right. What was the nature of that conversation?

11:35AM 10 A. Mark Falzone was close with Ron, and he could possibly --
11:35AM 11 let me rephrase that.

11:35AM 12 We did have a conversation about possibly blaming someone
11:35AM 13 else. It was Mark Falzone.

11:35AM 14 Q. Describe that conversation.

11:36AM 15 A. If anything were to happen, we were gonna involve Mark
11:36AM 16 Falzone as a coconspirator working with us, and kind of lay
11:36AM 17 some of the blame on him for that.

11:36AM 18 Q. Blame for what?

11:36AM 19 A. For what we were doing, for what was going on with us.

11:36AM 20 Q. I just want to clarify it. Was the plan to link Falzone
11:36AM 21 and Serio to the bribes? What are you talking about?

11:36AM 22 A. Well, that too. But we were gonna try to blame Mark
11:36AM 23 Falzone for some of it as well. But we were gonna try to
11:36AM 24 link him to the contact for the bribes.

11:36AM 25 Q. Was Falzone in fact someone who was selling marijuana

11:36AM 1 with Serio in your group?

11:36AM 2 A. He was. He was getting it from Ron.

11:36AM 3 Q. But was he better friends with you and Mike? Or was he
11:36AM 4 better friends with Ron?

11:36AM 5 A. He was best friends -- he was lifelong friends with Ron.

11:36AM 6 Q. Okay. So Falzone and Serio are closer than Serio and
11:37AM 7 you, for example?

11:37AM 8 A. Correct.

11:37AM 9 Q. Falzone and Serio are closer personally than Masecchia
11:37AM 10 and Serio?

11:37AM 11 A. Yes.

11:37AM 12 Q. Okay. And, in fact, in some of your early proffers with
11:37AM 13 the government, did you try to blame Mark Falzone for certain
11:37AM 14 things that you were involved in?

11:37AM 15 A. I did. I tried to blame him for my connection with Ron
11:37AM 16 and other things.

11:37AM 17 Q. In some of your early proffers, did you attempt to tell
11:37AM 18 the government that you were Bongiovanni's C.I.?

11:37AM 19 A. Yes.

11:37AM 20 Q. Was that true?

11:37AM 21 A. Yes.

11:37AM 22 Q. You tried do that, but was it in fact true?

11:37AM 23 A. It was not true. I tried to, but it was not true.

11:37AM 24 Q. So in other words, when you started proffering with the
11:37AM 25 government, did you attempt to execute on plans you had made

11:38AM 1 with Bongiovanni and Masecchia?

11:38AM 2 A. Yes.

11:38AM 3 Q. When your house was searched, did you provide your phone
11:38AM 4 to Special Agent Marilyn Halliday?

11:38AM 5 A. I did.

11:38AM 6 Q. Did you permit HSI to take your phone and search it?

11:38AM 7 A. I did.

11:38AM 8 Q. And you consented to that?

11:38AM 9 A. I did.

11:38AM 10 Q. Did she take your phone and then return it to you?

11:38AM 11 A. She did.

11:38AM 12 Q. And is it your understanding that the information from
11:38AM 13 your phone was extracted, like a copy of it was made?

11:38AM 14 A. Yes.

11:38AM 15 Q. Have you reviewed parts of that extraction prior to
11:38AM 16 testifying here in court today?

11:38AM 17 A. Yes.

11:38AM 18 Q. And did you, for the parts that we're gonna show this
11:38AM 19 jury, or we intend to show this jury subject to the Court's
11:38AM 20 rulings, did you -- did you look at the contents of that
11:38AM 21 extraction and verify that it was stuff that you had on your
11:38AM 22 phone?

11:38AM 23 A. Yes.

11:38AM 24 Q. Does that include contacts?

11:39AM 25 A. Yes. Contacts with numbers.

11:39AM 1 Q. Phone numbers?

11:39AM 2 A. Yes.

11:39AM 3 Q. Some photos?

11:39AM 4 A. Yes.

11:39AM 5 Q. Does that include text messages?

11:39AM 6 A. Yes, everything.

11:39AM 7 Q. Call logs?

11:39AM 8 A. Yes.

11:39AM 9 **MR. TRIPI:** Okay. If we could, just for the witness
11:39AM 10 for now --

11:39AM 11 **BY MR. TRIPI:**

11:39AM 12 Q. I'd like to show you Government Exhibit 208D up on your
11:39AM 13 screen. You can take a look at that Mr. Selva when it comes
11:39AM 14 up.

11:39AM 15 **MR. TRIPI:** And, Ms. Champoux, can we just give it
11:39AM 16 five seconds, and then go each page so Mr. Selva can see each
11:39AM 17 page?

11:40AM 18 We can go back to page 1, please.

11:40AM 19 **BY MR. TRIPI:**

11:40AM 20 Q. I'm going to hand you up 208D, same thing that's on the
11:40AM 21 screen. The version on the screen does not have your
11:40AM 22 initials, correct?

11:40AM 23 A. Correct.

11:40AM 24 Q. But is that exact thing in front of you now in hard copy?

11:40AM 25 A. Yes.

11:40AM 1 Q. And did you initial a CD that had this pdf on it as well
11:40AM 2 as a paper copy?

11:40AM 3 A. I did.

11:40AM 4 Q. And did you verify that this was -- these were some of
11:40AM 5 the contacts in your phone for that -- that phone number that
11:40AM 6 you provided earlier?

11:40AM 7 A. Yes.

11:40AM 8 Q. Is it a fair and accurate copy of this portion of the
11:41AM 9 contacts on your phone?

11:41AM 10 A. Yes.

11:41AM 11 **MR. TRIPI:** The government will offer Exhibit 208D,
11:41AM 12 Your Honor.

11:41AM 13 **MR. SINGER:** Just one moment, Judge.

11:42AM 14 We're going to object to the form of the exhibit
11:42AM 15 under the Rule of Completeness. It's an excerpt, as I
11:42AM 16 understand it, and I reviewed it the other day, and it doesn't
11:42AM 17 display all the contacts that Mr. Selva has on his phone.

11:42AM 18 I think there's been a proper foundation and
11:42AM 19 authenticity laid for the purpose of admitting the exhibit,
11:42AM 20 but under its current form, I don't think it's admissible
11:42AM 21 because of the Rule of Completeness.

11:42AM 22 **THE COURT:** So, well, the Rule of Completeness, you
11:42AM 23 can offer the rest of it, right?

11:42AM 24 **MR. SINGER:** We could, Judge. I think the problem
11:42AM 25 is, is that the extraction reports that we have are -- we're

11:42AM 1 limited, we don't have a --

11:42AM 2 **THE COURT:** Oh, you don't have the whole thing?

11:42AM 3 **MR. TRIPI:** No, they have the whole extraction, Your
11:42AM 4 Honor. The whole extraction is marked as Exhibit 208.

11:42AM 5 **THE COURT:** Let me ask this. Is this the entire
11:42AM 6 contact list from the phone?

11:42AM 7 **MR. TRIPI:** So, the complete extraction has the
11:43AM 8 entire contact list. These are the names relevant to his
11:43AM 9 testimony as far as the government believes.

11:43AM 10 If they want to put in other names, they can do that.

11:43AM 11 But we've identified, and I don't think this is
11:43AM 12 saying too much in front of the jury, Your Honor, 39 names out
11:43AM 13 of all of his contacts to show that are relevant.

11:43AM 14 **THE COURT:** And this is a compilation of the names
11:43AM 15 that you put together numbered 1 through 39?

11:43AM 16 **MR. TRIPI:** No, this is the extraction. When you
11:43AM 17 have a large extraction, Your Honor, you can -- you can --
11:43AM 18 it's just like when they execute a search warrant, you can
11:43AM 19 carve certain parts of it that are relevant to, for example,
11:43AM 20 Attachment B of a search warrant.

11:43AM 21 This is the same thing for purposes of the jury
11:43AM 22 trial. We've identified certain text threads, not all text
11:43AM 23 threads with, for example, Mr. Bongiovanni. Contacts that are
11:43AM 24 relevant to the testimony, stuff like that.

11:43AM 25 We don't believe the whole phone, and every search

11:43AM 1 he's ever done, and every phone call he's ever made, is
11:43AM 2 relevant to this trial. So --

11:44AM 3 **THE COURT:** Could you page through for me?

11:44AM 4 **MR. TRIPI:** Do you want the hard copy?

11:44AM 5 **THE COURT:** Yeah, give me the hard copy.

11:44AM 6 **MR. TRIPI:** There you go, Judge.

11:44AM 7 **THE COURT:** So what concerns me is these are
11:44AM 8 consecutively numbered. They're numbered 1, 2, 3, 4 through
11:44AM 9 39.

11:44AM 10 **MR. TRIPI:** Yes.

11:44AM 11 **THE COURT:** Those numbers weren't on the extraction,
11:44AM 12 I'm sure. They couldn't be. If this is -- if these are
11:44AM 13 excerpts.

11:44AM 14 **MR. TRIPI:** Well, when you run the report, you have a
11:44AM 15 full extraction, and then you say, okay, you tag items, I want
11:44AM 16 just these names. And then you create a subreport. That's
11:44AM 17 what that is.

11:44AM 18 **THE COURT:** Okay.

11:44AM 19 **MR. TRIPI:** And that's how it comes out.

11:44AM 20 **THE COURT:** So, Mr. Singer, in light of that
11:44AM 21 explanation, do you have a problem with this?

11:45AM 22 I mean, the Rule of Completeness, I'll allow you to
11:45AM 23 put all -- I'll allow you to put in the entire contact list if
11:45AM 24 you want.

11:45AM 25 **MR. SINGER:** No, I understand that, Judge. And so, I

11:45AM 1 mean, I think it's been established that we can do that. So
11:45AM 2 I'll withdraw the objection.

11:45AM 3 **THE COURT:** Okay. So it's then admitted without
11:45AM 4 objection.

11:45AM 5 **MR. TRIPI:** Thank you, Your Honor.

11:45AM 6 **(GOV Exhibit 208D was received in evidence.)**

11:45AM 7 **MR. TRIPI:** For record purposes, we'll admit the CD
11:45AM 8 and the hard copy. But for ease of reference, we're going to
11:45AM 9 display it on the monitor.

11:45AM 10 Ms. Champoux, now that Exhibit 208D is in evidence,
11:45AM 11 can you, like, just cut it in half so we can see the names and
11:45AM 12 phone numbers? But blow up those names for us?

11:45AM 13 Let's try it differently, Ms. Champoux. Maybe exit
11:45AM 14 out of that. It's still small. Let's try the first three. I
11:45AM 15 need the phone numbers, though. You've got to go over one
11:46AM 16 more row. There we go. I think that's better.

11:46AM 17 **BY MR. TRIPI:**

11:46AM 18 Q. Mr. Selva, did you have a contact in your name -- in your
11:46AM 19 phone for Anthony Gerace?

11:46AM 20 A. I did.

11:46AM 21 Q. And who is that?

11:46AM 22 A. Peter Gerace's brother.

11:46AM 23 Q. And what phone number did you have for him?

11:46AM 24 A. 7. The one that in the entry is 716-799-7724.

11:46AM 25 Q. And the next one down is a reference to a Baby Joe. Who

11:46AM

1 was that?

11:46AM

2 A. Baby Joe Mesi.

11:46AM

3 Q. And do you have a reference to his phone number?

11:46AM

4 A. 716-359-8214.

11:46AM

5 Q. And the next one down, there's a reference to a Gorilla

11:46AM

6 Ape Boy, who is that?

11:46AM

7 A. That's Masecchia. That was his nickname.

11:46AM

8 Q. And you had a phone number for him?

11:46AM

9 A. I did.

11:46AM

10 Q. What was that?

11:46AM

11 A. 716-812-0664.

11:47AM

12 **MR. TRIPI:** Can we show 4 through 7 now,

11:47AM

13 Ms. Champoux?

11:47AM

14 **BY MR. TRIPI:**

11:47AM

15 Q. And did you have a -- number 4, there's Gorilla new
16 number; who is that?

11:47AM

17 A. Again, that's Mike Masecchia. He changed his number.

11:47AM

18 716-580-2897.

11:47AM

19 Q. And next one down, you have an entry for Grover Gorilla;
20 who is that?

11:47AM

21 A. Again, that's Mike Masecchia, his work number at Grover
22 Cleveland High School.

11:47AM

23 Q. And that's 716 --

11:47AM

24 A. Yes, I'm sorry, 716-816-4300.

11:47AM

25 Q. The next one down, you have an entry for a Joe Bella?

11:47AM 1 A. Yes.

11:47AM 2 Q. Who is that?

11:47AM 3 A. Joe is a friend of mine. The mobile number again is

11:47AM 4 716-310-6664.

11:47AM 5 Q. Is Joe Bella someone the defendant also knows?

11:47AM 6 A. Yes.

11:47AM 7 Q. Does Masecchia also know Bella?

11:47AM 8 A. Yes.

11:48AM 9 Q. Does Anthony Gerace?

11:48AM 10 A. Yes.

11:48AM 11 Q. Does Peter Gerace?

11:48AM 12 A. Yes.

11:48AM 13 **MR. TRIPI:** Can we go to the next page, Ms. Champoux?

11:48AM 14 Can we just go to 8 and 9.

11:48AM 15 **BY MR. TRIPI:**

11:48AM 16 Q. You had a Facebook for entry for Bella as well, Facebook

11:48AM 17 friends?

11:48AM 18 A. At that time, yes.

11:48AM 19 **MR. TRIPI:** Okay. Can we just highlight 8 and 9,

11:48AM 20 please?

11:48AM 21 **BY MR. TRIPI:**

11:48AM 22 Q. Who is -- who's Joe Bong?

11:48AM 23 A. Joe Bong, the defendant.

11:48AM 24 Q. Okay. And did you have two numbers for him?

11:48AM 25 A. Yes.

11:48AM 1 Q. Were those new numbers after his retirement, or when did
11:48AM 2 you acquire those?

11:48AM 3 A. After his -- I believe that was after.

11:48AM 4 Q. Or did you have those before?

11:48AM 5 A. No, those were new. I can't recall if it was after the
11:48AM 6 retirement, or after his house had been -- I -- I don't
11:49AM 7 recall when I got them.

11:49AM 8 Q. Okay. Entry number 9, you see that? Krista Masecchia.

11:49AM 9 Who's that?

11:49AM 10 A. That's Mike Masecchia's wife.

11:49AM 11 **MR. TRIPI:** Okay. Ms. Champoux, if we can go to the
11:49AM 12 next set of entries, maybe the next three.

11:49AM 13 **BY MR. TRIPI:**

11:49AM 14 Q. Who's the next entry, the 10 spot there?

11:49AM 15 A. That's the defendant's wife, Lindsay Bongiovanni.

11:49AM 16 Q. Okay. The next one down, who's that?

11:49AM 17 A. That's Lillo Brancato.

11:49AM 18 Q. Who's that?

11:49AM 19 A. He's a friend of a girl I was dating at the time. He
11:49AM 20 actually is an actor.

11:49AM 21 Q. Is that the former actor from, like, the movie Bronx
11:49AM 22 Tale?

11:49AM 23 A. He was in the Bronx Tale, Crimson Tide, a bunch of
11:49AM 24 movies.

11:49AM 25 Q. Is he a friend of anyone else you know?

11:49AM 1 A. Peter Gerace.

11:49AM 2 Q. Do you see Mike Buttita there?

11:50AM 3 A. Yes.

11:50AM 4 Q. Was Mike Buttita someone who was involved distributing

11:50AM 5 marijuana with Serio?

11:50AM 6 A. He was a friend of Serio's. I believe he was involved.

11:50AM 7 I've never seen them do anything, but I knew of him and what

11:50AM 8 was going on.

11:50AM 9 Q. And you had a number for number for Mike Buttita?

11:50AM 10 A. Yes.

11:50AM 11 **MR. TRIPI:** Can we go to the next page, Ms. Champoux?

11:50AM 12 Maybe highlight the next three.

11:50AM 13 **BY MR. TRIPI:**

11:50AM 14 Q. Is that top name there, who's that?

11:50AM 15 A. That's Mike Masecchia's home number, I believe. Yes.

11:50AM 16 'Cuz he lived in -- yes, that's his home number I believe.

11:50AM 17 Q. So you had three entries for Masecchia under some moniker

11:50AM 18 of Gorilla, and one entry where you said his first and last

11:50AM 19 name with his landline?

11:50AM 20 A. Yes.

11:50AM 21 Q. Is there any that reason you distinguished between his

11:51AM 22 nickname for certain phone numbers, and his true name for his

11:51AM 23 landline?

11:51AM 24 A. So I knew which one was which. Like, if I had it under

11:51AM 25 his name, I knew that was his home phone. The other ones

11:51AM 1 were all cell phones or burner phones.

11:51AM 2 Q. That's my question. Were the other numbers, other than
11:51AM 3 the Grover High School number, were those burner numbers?

11:51AM 4 A. Yes.

11:51AM 5 Q. Okay. Under Masecchia, you have a name Mike Sinatra.

11:51AM 6 Who's that?

11:51AM 7 A. That's the landscaper. That was a friend of the
11:51AM 8 defendant.

11:51AM 9 Q. And below that, who's listed there?

11:51AM 10 A. Peter Gerace.

11:51AM 11 Q. And what phone number did he have?

11:51AM 12 A. 716-725-1931.

11:51AM 13 Q. Okay. If we can go to the next -- that's the same Peter
11:51AM 14 Gerace you've testified about?

11:51AM 15 A. Yes.

11:51AM 16 **MR. TRIPI:** Let's go to the next three.

11:51AM 17 **BY MR. TRIPI:**

11:51AM 18 Q. Who's in entry number 16?

11:51AM 19 A. Ron Serio. 716-830-3226.

11:52AM 20 Q. And is that the Ron Serio, Greenie, you've been
11:52AM 21 testifying about?

11:52AM 22 A. Yes.

11:52AM 23 Q. And below that, who's the next entry?

11:52AM 24 A. Tom Serio, Ron's brother. 561-801-0221.

11:52AM 25 Q. And below that, there's a Wayne Anderson. Who's that?

11:52AM 1 A. Wayne's a friend. It's 716-481-9511.

11:52AM 2 Q. Is that the same Wayne Anderson you and the defendant
11:52AM 3 have known since you were teenagers?

11:52AM 4 A. Yes.

11:52AM 5 **MR. TRIPI:** Next page, please. Or the next three or
11:52AM 6 two. 19 and 20.

11:52AM 7 **BY MR. TRIPI:**

11:52AM 8 Q. We've talked about Wayne Anderson. Who's that contact in
11:52AM 9 number 20?

11:52AM 10 A. Frank Parisi.

11:52AM 11 Q. And who is that?

11:52AM 12 A. He is the former -- he's a lifelong friend, just a
11:53AM 13 friend, business owner. Owner of the SoHo.

11:53AM 14 Q. Is he also someone who's friends with the defendant?

11:53AM 15 A. Yes.

11:53AM 16 **MR. TRIPI:** Let's go to the next contact. If you
11:53AM 17 could try that again, we cut off part of the name.

11:53AM 18 **BY MR. TRIPI:**

11:53AM 19 Q. Okay. Entry 21. Who's that?

11:53AM 20 A. Donnie Panepinto.

11:53AM 21 Q. And who's that?

11:53AM 22 A. He's an attorney. It's -- you referenced before Dana
11:53AM 23 Panepinto, the defendant's girlfriend from when we were
11:53AM 24 growing up, it's her brother.

11:53AM 25 Q. This would be Turtle's son?

11:53AM 1 A. Turtle's son, yes.

11:53AM 2 Q. And below that, there's an entry for a Frank Tripi?

11:53AM 3 A. Yes, sir.

11:53AM 4 Q. That's no relation to me, correct?

11:53AM 5 A. Correct.

11:53AM 6 Q. All right. And who is that?

11:54AM 7 A. Again, a friend. And that is his work number for a

11:54AM 8 business he had owned. That's what it says under

11:54AM 9 organization. Then his mobile number. I'm sorry, it's his

11:54AM 10 mobile number.

11:54AM 11 Q. Is that someone you knew to be involved in debt

11:54AM 12 collection?

11:54AM 13 A. Yes.

11:54AM 14 Q. Did you -- did you know him to be involved in anything

11:54AM 15 related to drugs?

11:54AM 16 A. No.

11:54AM 17 Q. Is that someone who the defendant also knows?

11:54AM 18 A. Yes.

11:54AM 19 Q. Okay. Let's go down to the next one, 23. You were also

11:54AM 20 Facebook friends with this Frank Tripi?

11:54AM 21 A. At the time, yes.

11:54AM 22 **MR. TRIPPI:** Okay. Can we go to the next set of

11:54AM 23 contacts, please? I think that's a continuation. We can go

11:54AM 24 to the next one.

25

11:54AM 1 **BY MR. TRIPI:**

11:54AM 2 Q. Okay. I think earlier you said you were friends with a
11:55AM 3 Mark Grisanti. Is that a relative of that person?

11:55AM 4 A. That's his wife, Maria.

11:55AM 5 **MR. TRIPI:** If we can go to the next set of contacts,
11:55AM 6 please. And let's go to the next two.

11:55AM 7 **BY MR. TRIPI:**

11:55AM 8 Q. And who is Nancy Standish?

11:55AM 9 A. She's an old friend. Facebook friend. I don't even know
11:55AM 10 why I have her number there.

11:55AM 11 Q. Under organization, it says Crocodile Bar, Cabaret. Is
11:55AM 12 that person a bartender?

11:55AM 13 A. That's correct, she used to be a bartender.

11:55AM 14 Q. Was the Crocodile Bar a bar on Chippewa?

11:55AM 15 A. It was.

11:55AM 16 Q. Was Cabaret a bar near Chippewa?

11:55AM 17 A. It was.

11:55AM 18 **MR. TRIPI:** Can we go to the next set of contacts
11:55AM 19 please.

11:55AM 20 **BY MR. TRIPI:**

11:56AM 21 Q. We've talked about Mark Grisanti before. And then who is
11:56AM 22 Skip Giambrone.

11:56AM 23 A. He's a friend I've known for quite some time, and also he
11:56AM 24 was doing business with Ron as well.

11:56AM 25 Q. What type of business?

11:56AM 1 A. Purchasing marijuana from him.

11:56AM 2 Q. Distributing it?

11:56AM 3 A. Distributing it, yes.

11:56AM 4 Q. Large amounts?

11:56AM 5 A. Yes.

11:56AM 6 Q. So he was part of the group that you were involved in
11:56AM 7 through Ron?

11:56AM 8 A. Through Ron, yes.

11:56AM 9 **MR. TRIPI:** Let's go to 32, 33. Let's just go to 33,
11:56AM 10 I'm sorry, Ms. Champoux, we've talked about 32.

11:56AM 11 **BY MR. TRIPI:**

11:56AM 12 Q. And who is entry 33 there?

11:56AM 13 A. Tom Napoli.

11:56AM 14 Q. Is that the Tom Napoli that you've been referencing in
11:57AM 15 certain parts of your testimony?

11:57AM 16 A. Yes.

11:57AM 17 Q. And that was a Facebook friend at the time?

11:57AM 18 A. Yes.

11:57AM 19 **MR. TRIPI:** Let's go to the next contacts, please.
11:57AM 20 And let's go 34, 35, and 36 if we could.

11:57AM 21 **BY MR. TRIPI:**

11:57AM 22 Q. And 34, it's Bart's cell. Who's Bart or who was Bart?

11:57AM 23 A. It's Bart Mazzara, an old friend, he's since deceased.

11:57AM 24 That's his cell number at the time. 716-444-5680.

11:57AM 25 Q. Was he a childhood friend?

11:57AM 1 A. Yes.

11:57AM 2 Q. Did he know the defendant, as well?

11:57AM 3 A. Yes.

11:57AM 4 Q. Was he also related through marriage to Masecchia?

11:57AM 5 A. He was his brother-in-law.

11:57AM 6 Q. Okay. That contact, 36, Matt Suppa, who was that?

11:57AM 7 A. Again, Matt is a lifelong friend. Childhood friend.

11:57AM 8 That's his number, 716-553-0099.

11:58AM 9 Q. And what was his role as it related to the outdoor grow
11:58AM 10 operations you've testified about?

11:58AM 11 A. Matt really wasn't involved.

11:58AM 12 Q. Who owned the land?

11:58AM 13 A. His brother, Mark.

11:58AM 14 Q. Okay. My apologies.

11:58AM 15 **MR. TRIPI:** Can we go to the next set of contacts, or
11:58AM 16 was that it?

11:58AM 17 **BY MR. TRIPI:**

11:58AM 18 Q. We talked about Matt Suppa. Then there's an entry for
11:58AM 19 Joe Tomasello?

11:58AM 20 A. Yes.

11:58AM 21 Q. Is that the Joe Tomasello you referenced earlier in your
11:58AM 22 testimony yesterday?

11:58AM 23 A. Yes.

11:58AM 24 **MR. TRIPI:** And can we go to contact 39, please.

25

11:58AM
1

BY MR. TRIPI:

2 Q. And was he, in addition to having Joseph Tomasello's
3 phone number, was he also a Facebook friend?

4 A. Yes.

5 Q. Okay. I think that's it, correct? Okay. Next I'd like
6 to show you Exhibit 208K.

7 **MR. TRIPI:** Just the witness only at this point.

8 **BY MR. TRIPI:**

9 Q. Mr. Selva, after Anthony Gerace was charged federally,
10 did you use your phone to search the internet about his case?

11 A. I did.

12 Q. Did you look at Exhibit 208K, particularly the
13 information on the second page?

14 A. Yes.

15 Q. Does that show the different dates and times you used
16 your phone to search the internet about Anthony Gerace's
17 case?

18 A. It does, yes.

19 **MR. TRIPI:** Your Honor, the government offers Exhibit
20 208K.

21 **MR. SINGER:** No objection.

22 **THE COURT:** Received without objection.

23 **(GOV Exhibit 208K was received in evidence.)**

24 **MR. TRIPI:** If we can publish that for the jury.

25

12:00PM

1 BY MR. TRIPI:

2 Q. Would it be accurate to say that you searched the Buffalo
12:00PM News articles for Anthony Gerace's case June 30th, July 8th,
12:00PM and July 30th, 2019?

12:00PM

5 A. Yes.

12:00PM

6 Q. Explain for the jury why you were searching Anthony
12:00PM

7 Gerace's case on your phone.

12:00PM

8 A. Because I had heard -- this is when he had got arrested,

12:00PM

9 and I just wanted to know updates, what was going on with it,
12:00PM where it was, if there was any new information being
12:00PM published about it.

12:00PM

12 Q. Were you concerned that Anthony Gerace's case could link
12:00PM

13 back to you in some way?

12:01PM

14 A. Yes.

12:01PM

15 Q. How so?

12:01PM

16 A. 'Cuz his relationship with Ron.

12:01PM

17 Q. Were you concerned as to whether or not Anthony would
12:01PM

18 cooperate?

12:01PM

19 A. Yes.

12:01PM

20 MR. TRIPI: I'd like to show just the witness exhibit
12:01PM

21 208E. I'll hand it up, it might be easier.

12:01PM

22 BY MR. TRIPI:

12:01PM

23 Q. Mr. Selva, I've handed you up a hard copy, a CD, as well
12:02PM

24 as several pages that you've initialed; is that correct?

12:02PM

25 A. Correct.

12:02PM 1 Q. Are those documents -- does the CD, Exhibit 208E, and the
12:02PM 2 hard copy pdf, are those photographs that you had on your
12:02PM 3 phone that you verified came from your phone?

12:02PM 4 A. They are.

12:02PM 5 Q. And do you recognize your initials on the document, as
12:02PM 6 well as the CD?

12:02PM 7 A. Yes.

12:02PM 8 Q. Do you recognize the phone number written on the face of
12:02PM 9 the CD there?

12:02PM 10 A. Yes.

12:02PM 11 **MR. TRIPI:** The government offers Exhibit 208E,
12:02PM 12 Your Honor.

12:02PM 13 **MR. SINGER:** No objection.

12:02PM 14 **THE COURT:** Received without objection.

12:02PM 15 **(GOV Exhibit 208E was received in evidence.)**

12:02PM 16 **MR. TRIPI:** Ms. Champoux, can you publish the photos
12:02PM 17 from his phone for the jury?

12:03PM 18 Just one moment, Your Honor.

12:03PM 19 I'm going to ask you to go to the next one down,
12:03PM 20 Ms. Champoux.

12:03PM 21 **BY MR. TRIPI:**

12:03PM 22 Q. It's a little grainy when we do it this way, but
12:03PM 23 Mr. Selva, even though that's a little blurry, do you know
12:03PM 24 what that photo is?

12:03PM 25 A. I do.

12:03PM 1 Q. What is that photo?

12:04PM 2 A. It's my graduation from the Sheriff's Academy.

12:04PM 3 Q. And who's on -- to the left of the screen, who are you
12:04PM 4 hugging?

12:04PM 5 A. The defendant, Joe. And mutual friend, lifelong friend,
12:04PM 6 Victor Sorrento.

12:04PM 7 **MR. TRIPI:** Okay. We can zoom out of there.

12:04PM 8 **BY MR. TRIPI:**

12:04PM 9 Q. Are several of these other photographs you and the
12:04PM 10 defendant over time at various places?

12:04PM 11 A. Yes.

12:04PM 12 **MR. TRIPI:** Okay. We can move on from there.

12:04PM 13 **BY MR. TRIPI:**

12:04PM 14 Q. I'm going to ask you to look at Exhibit 208F. It's also
12:05PM 15 on the screen next to you. What is Exhibit 208F?

12:05PM 16 A. It's text messages from -- between myself and the
12:05PM 17 defendant, Joe.

12:05PM 18 Q. And how do you recognize it?

12:05PM 19 A. Just the -- the messages that transpired.

12:05PM 20 Q. And did you also review that before today and initial the
12:05PM 21 CD and the page?

12:05PM 22 A. I did, yes.

12:05PM 23 Q. And do you remember sending and receiving texts with the
12:05PM 24 defendant?

12:05PM 25 A. Yes.

12:05PM 1 Q. And are those specific texts in the month of August 2019
12:05PM 2 before the search warrant at your house?

12:05PM 3 A. Yes.

12:05PM 4 **MR. TRIPI:** Okay. The government offers Exhibit
12:05PM 5 208F, Your Honor, texts in August 2019.

12:05PM 6 **MR. SINGER:** No objection.

12:06PM 7 **THE COURT:** Received without objection.

12:06PM 8 **(GOV Exhibit 208F was received in evidence.)**

12:06PM 9 **MR. TRIPI:** Okay. Ms. Champoux, if we could zoom in
12:06PM 10 so we can see the content better, maybe go two at a time.

12:06PM 11 Let's start from the bottom.

12:06PM 12 **BY MR. TRIPI:**

12:06PM 13 Q. Actually, starting on August 20th, you sent a message to
12:06PM 14 the defendant in that column, row 4 there?

12:06PM 15 A. Yes.

12:06PM 16 Q. That's August 20th?

12:06PM 17 A. Yes.

12:06PM 18 Q. What did you write?

12:06PM 19 A. Anything for -- anything for brother, I love you.

12:06PM 20 Q. And what did the defendant respond in the next row?

12:06PM 21 A. Love ya brother.

12:06PM 22 **MR. TRIPI:** And can we go to row 3?

12:06PM 23 **BY MR. TRIPI:**

12:07PM 24 Q. And what were you guys talking about in this sequence; do
12:07PM 25 you recall?

12:07PM 1 A. I don't recall.

12:07PM 2 **MR. TRIPI:** And can we show 1 and 2?

12:07PM 3 We can take that down. May the record reflect we've
12:07PM 4 published that exhibit to the jury.

12:07PM 5 **BY MR. TRIPI:**

12:07PM 6 Q. I'm next going to hand you Government Exhibit 208G.

12:07PM 7 Does Exhibit 208G, do you recognize that?

12:07PM 8 A. Yes.

12:07PM 9 Q. Are those more text messages from your cell phone that
12:08PM 10 you had with the defendant?

12:08PM 11 A. They are, yes.

12:08PM 12 Q. Did you review those, the CD and the hard copy and
12:08PM 13 initial it?

12:08PM 14 A. I did, yes.

12:08PM 15 Q. And were the text messages accurate?

12:08PM 16 A. Yes.

12:08PM 17 **MR. TRIPI:** The government offers 208G, Your Honor.

12:08PM 18 **MR. SINGER:** No objection.

12:08PM 19 **THE COURT:** Received without objection.

12:08PM 20 **(GOV Exhibit 208G was received in evidence.)**

12:08PM 21 **MR. TRIPI:** Now, Ms. Champoux, if we can go to the
12:08PM 22 bottom, they're in reverse order. We can highlight those
12:08PM 23 four.

12:08PM 24 **BY MR. TRIPI:**

12:08PM 25 Q. So, beginning at row 53 there, is that a text from you to

12:08PM 1 the defendant on March 1st, 2019 -- or, sorry, from the
12:09PM 2 defendant to you?

12:09PM 3 A. Yes.

12:09PM 4 Q. And what does the message read?

12:09PM 5 A. Dude, I got a pass Saturday. Lindsay and her friends are
12:09PM 6 going to Belsito. You want to get out early about 7 for a
12:09PM 7 couple.

12:09PM 8 Q. And what was the defendant asking you there?

12:09PM 9 A. Just to meet for a couple of drinks.

12:09PM 10 Q. On the next day, March 2nd, did you have a text where you
12:09PM 11 sent the defendant?

12:09PM 12 A. Yes.

12:09PM 13 Q. And what did you write?

12:09PM 14 A. Bro, I'm here. Are you on your way?

12:09PM 15 Q. Were you at a bar waiting for him?

12:09PM 16 A. Yes.

12:09PM 17 Q. Was that the Saturday, the plans you made the day before?

12:09PM 18 A. Yes.

12:09PM 19 Q. Can you read the message from the defendant to you on
12:10PM 20 March 15th, 2019?

12:10PM 21 A. Bro, will Fanara have an opening when you start the
12:10PM 22 sheriffs? I'm interested.

12:10PM 23 Q. What was that discussion about?

12:10PM 24 A. About bartending at Fanara's where I mentioned.

12:10PM 25 Q. So is this shortly after the defendant retired?

12:10PM 1 A. Yes.

12:10PM 2 Q. Is this shortly before you started at the sheriff's
12:10PM 3 office?

12:10PM 4 A. It is, yes.

12:10PM 5 Q. Okay. And did you respond to that message in row number
12:10PM 6 50?

12:10PM 7 A. I did.

12:10PM 8 Q. What did you -- what did you say?

12:10PM 9 A. I said yes, my last shift is this Monday. You would be
12:10PM 10 perfect there, Bro. I'll tell Joe Monday you are interested.
12:10PM 11 Just brush up on your martini, Manhattans, and mottled Old
12:10PM 12 Fashions. What I do if I forget, go to the waitress station
12:10PM 13 out of sight and Google it.

12:10PM 14 Meaning I get in, you know, a recipe, sometimes you
12:11PM 15 forget it. I would step aside and Google it.

12:11PM 16 You would do great there. Very easy bar to work, and the
12:11PM 17 money is awesome. You serve a lot of food at the bar. Easy
12:11PM 18 Bro.

12:11PM 19 **MR. TRIPI:** Ms. Champoux, can we show 49 through 45.

12:11PM 20 **BY MR. TRIPI:**

12:11PM 21 Q. On March 15th, 2019, at about 3:08 p.m., is there a
12:11PM 22 message that you read from the defendant?

12:11PM 23 A. Yes. I'm sick. I can't do it.

12:11PM 24 Q. No, above that. I'm sorry, I skipped that one. Row 48?

12:11PM 25 A. Yes.

12:11PM 1 Q. Can you read that one?

12:11PM 2 A. Lindsay is cool with it. If you can swing it with Joe,

12:11PM 3 that would be awesome. I'll study my drinks all week. LOL.

12:12PM 4 Q. And above that, did you respond?

12:12PM 5 A. Yes. Come in Monday night and I'll introduce you to Joe.

12:12PM 6 Q. So was the defendant looking for a job?

12:12PM 7 A. Bartending.

12:12PM 8 Q. And then there's a little more exchange about that,

12:12PM 9 correct?

12:12PM 10 A. Correct.

12:12PM 11 **MR. TRIPI:** Can we go and show the next set of

12:12PM 12 messages, 44 through 40, maybe? We'll let the jury review it

12:12PM 13 for a moment, then we'll move on.

12:13PM 14 Okay. Let's try 39 through maybe 35, Ms. Champoux.

12:13PM 15 **BY MR. TRIPI:**

12:13PM 16 Q. In row 36 there, do you see that message that you sent?

12:13PM 17 A. Yes.

12:13PM 18 Q. What was that name and phone number for?

12:13PM 19 A. I believe it was a contractor.

12:13PM 20 Q. For what type of work?

12:13PM 21 A. I don't -- I don't recall what type of work needed to be

12:13PM 22 done.

12:14PM 23 Q. Do you see the name there that you wrote?

12:14PM 24 A. Yes.

12:14PM 25 Q. What's it say?

12:14PM 1 A. Are you talking about line 36?

12:14PM 2 Q. Yep.

12:14PM 3 A. Robert Kelichner brick, and then the mobile number.

12:14PM 4 Q. Was brick the person's name, or was brick the type of
12:14PM 5 contractor work?

12:14PM 6 A. I believe it was the type of contracting work. It was
12:14PM 7 something I put to reference.

12:14PM 8 Q. Did the defendant ask you for a reference for brickwork?

12:14PM 9 A. I believe, yes.

12:14PM 10 **MR. TRIPI:** Can we go 34 through 30, Ms. Champoux?

12:14PM 11 **THE COURT:** Mr. Tripi, how much more are we going to
12:14PM 12 be doing?

12:14PM 13 **MR. TRIPI:** We're going to move this along, Judge.

12:15PM 14 I'm gonna get this done. Give me one moment, Your Honor.

12:15PM 15 Can we go to 21, row 21, Ms. Champoux?

12:15PM 16 **BY MR. TRIPI:**

12:15PM 17 Q. All right. So, is this a message that the defendant sent
12:15PM 18 you April 10th, 2019?

12:15PM 19 A. Yes.

12:15PM 20 Q. Can you read it for the jury?

12:15PM 21 A. Dude, I had something come up at 4 today. Could you come
12:16PM 22 over at about 7 tonight? Lindsay isn't home until 8:30 so
12:16PM 23 we'll have time. Also, I'm good all day Friday.

12:16PM 24 Q. During this time period, was the defendant at times
12:16PM 25 meeting with you and helping you study?

12:16PM 1 A. Yes.

12:16PM 2 Q. Would you go over there when no one else was home?

12:16PM 3 A. Yes.

12:16PM 4 Q. Is that also when you would talk about -- have some of
12:16PM 5 these conversations you've testified about?

12:16PM 6 A. Yes.

12:16PM 7 **MR. TRIPI:** Okay, we can move on from this exhibit,
12:16PM 8 Ms. Champoux.

12:16PM 9 **BY MR. TRIPI:**

12:17PM 10 Q. I'm going to show you two more sets of texts, okay?

12:17PM 11 **MR. SINGER:** I'm sorry, what was the witness handed?

12:17PM 12 I'm sorry.

12:17PM 13 **MR. TRIPI:** We have Exhibit 208B and 208C handed up,
12:17PM 14 I'm sorry.

12:17PM 15 **MR. SINGER:** Thank you.

12:17PM 16 **BY MR. TRIPI:**

12:17PM 17 Q. Regarding Exhibit 208B, Mr. Selva, what is that?

12:17PM 18 A. That's my correspondence with Wayne Anderson's texting.

12:17PM 19 Q. And does 208B fairly and accurately depict texts that you
12:17PM 20 had with Wayne Anderson?

12:17PM 21 A. It does.

12:17PM 22 Q. And 208C, what is that?

12:18PM 23 A. It's correspondence with myself and the defendant.

12:18PM 24 Q. And does 208C fairly and accurately depict correspondence
12:18PM 25 text communications that you had with the defendant,

12:18PM 1 additional ones from your phone?

12:18PM 2 A. Yes.

12:18PM 3 **MR. TRIPI:** The government offers 208B and 208C,
12:18PM 4 Your Honor.

12:18PM 5 **MR. SINGER:** No objection.

12:18PM 6 **THE COURT:** 208B and C are admitted --

12:18PM 7 **MR. SINGER:** Judge, no objection to 208C. With
12:18PM 8 regard to 208B, I'll object on relevance.

12:18PM 9 **THE COURT:** Okay, so can I see 208B, please?

12:18PM 10 **MR. TRIPI:** Yes, Your Honor. The relevance, I'll be
12:18PM 11 very brief, the relevance is showing a continuing
12:18PM 12 relationship, that's all. Not necessarily the content.

12:18PM 13 **THE COURT:** I don't see any reason why 208 -- what is
12:18PM 14 this B or C.

12:19PM 15 **MR. TRIPI:** B.

12:19PM 16 **THE COURT:** I don't see any reason why 208B should
12:19PM 17 come in. I'll admit 208C without objection, but sustain the
12:19PM 18 objection to B. You can ask him about --

12:19PM 19 **MR. TRIPI:** Yeah, if I need to on redirect, I'll
12:19PM 20 circle back, Judge. That's fine.

12:08PM 21 **(GOV Exhibit 208C was received in evidence.)**

12:08PM 22 **BY MR. TRIPI:**

12:19PM 23 Q. Did you have ongoing communications with Wayne Anderson?

12:19PM 24 A. Yes.

12:19PM 25 Q. Okay. Did you have ongoing communications with Mike

12:19PM

1 Masecchia?

12:19PM

2 A. Yes.

12:19PM

3 Q. After the search warrant was executed at the defendant's
4 house, did you reach out to him through his wife?

12:19PM

5 A. I did.

12:19PM

6 Q. Did you text communications with his wife, Lindsay?

12:19PM

7 A. Yes.

12:19PM

8 Q. I'm going to show you Government Exhibit 208J.

12:20PM

9 Is it your understanding that for a time the defendant
10 wasn't talking?

12:20PM

11 A. Yes.

12:20PM

12 Q. Is that why you reached out to him through his wife?

12:20PM

13 A. Yes.

12:20PM

14 Q. And what is Exhibit 208J?

12:20PM

15 A. Correspondence with myself and the defendant's wife.

12:20PM

16 Q. By text message?

12:20PM

17 A. By text message.

12:20PM

18 Q. Does 208J fairly and accurately depict text messages you
19 had with Lindsay Bongiovanni as depicted in your cell phone?

12:20PM

20 A. Yes.

12:20PM

21 **MR. TRIPI:** The government offers Exhibit 208J,
22 Your Honor.

12:20PM

23 **MR. SINGER:** No objection.

12:20PM

24 **THE COURT:** 208J is admitted without objection.

12:20PM

25 **(GOV Exhibit 208J was received in evidence.)**

12:20PM

1 **MR. TRIPI:** Can we publish 208J, particularly row 5.

12:20PM

2 Row 4 and 5, I'm sorry.

12:20PM

3 **BY MR. TRIPI:**

12:21PM

4 Q. Mr. Selva, are those particular text messages a couple of
5 days after the search warrant at the defendant's house?

12:21PM

6 A. Yes.

12:21PM

7 Q. And can you describe what was transpiring in those text
8 communications?

12:21PM

9 A. I'm just reaching out to see how things are going. Okay.

12:21PM

10 Thank you, Lindsay. If you guys need anything at all, just
11 reach out. Love you guys.

12:21PM

12 And then, Hi, Lou. Just got your message. Joe is fine.

12:21PM

13 We're good. Just hanging out. Love ya.

12:21PM

14 Q. Okay. Now, I'd like to fast forward a little bit.

12:21PM

15 Did there come a time where you and the defendant did
16 start speaking again?

12:21PM

17 A. Yes.

12:21PM

18 Q. I'm going to hand you up Government Exhibits 208N and M.

12:21PM

19 I'm going to ask, is 208N text communications that you
20 had with the defendant from your phone to his phone,

12:22PM

21 507-2784?

12:22PM

22 A. Yes.

12:22PM

23 Q. And is 208M text communications you had from your phone
24 to his phone at 716-416-1797?

12:22PM

25 A. Yes.

12:22PM 1 Q. Did you review those?

12:22PM 2 A. Yes.

12:22PM 3 Q. Did you initial them?

12:22PM 4 A. I did.

12:22PM 5 Q. Were the text communications accurate?

12:22PM 6 A. They were.

12:22PM 7 **MR. TRIPI:** The government offers 208M and 208N,

12:22PM 8 Your Honor.

12:22PM 9 **MR. SINGER:** Judge, the only objection I have is
12:22PM 10 these don't appear to be text messages, they appear to be call
12:22PM 11 logs.

12:22PM 12 **MR. TRIPI:** Oh, that's -- I -- I misspoke.

12:22PM 13 **BY MR. TRIPI:**

12:22PM 14 Q. With that caveat, they are call logs, correct?

12:22PM 15 A. Correct.

12:22PM 16 **MR. TRIPI:** I misspoke.

12:22PM 17 **MR. SINGER:** No objection.

12:22PM 18 **THE COURT:** Received without objection.

12:22PM 19 **(GOV Exhibits 208M and N were received in evidence.)**

12:22PM 20 **BY MR. TRIPI:**

12:22PM 21 Q. Okay. And were you talking on the phone at various
12:22PM 22 times?

12:22PM 23 A. We were, yes.

12:22PM 24 Q. Now did there come a point in time after the search
12:22PM 25 warrant at the defendant's house that you met up with him?

12:23PM 1 A. Yes.

12:23PM 2 Q. Did you discuss the search warrant at his house?

12:23PM 3 A. Yes.

12:23PM 4 Q. Where did you discuss that search warrant?

12:23PM 5 A. For his house?

12:23PM 6 Q. Yes.

12:23PM 7 A. It was -- I went over there and we talked, we went for a

12:23PM 8 walk.

12:23PM 9 Q. Where did you walk?

12:23PM 10 A. I don't know if that's the park we went to, or in his

12:23PM 11 neighborhood, I don't recall.

12:23PM 12 Q. You referenced the park. What are you thinking of?

12:23PM 13 A. TTFA Park, Colvin Park.

12:23PM 14 Q. Okay. So after the warrant at his house, you remember

12:23PM 15 speaking in person with the defendant?

12:23PM 16 A. Yes.

12:23PM 17 Q. Describe -- did you discuss the warrant at his house?

12:23PM 18 A. Yes.

12:23PM 19 Q. Describe that conversation for the jury.

12:23PM 20 A. I heard -- I asked what was -- what happened, what was

12:23PM 21 going on. He said it happened abruptly. They seized some of

12:23PM 22 his property, his guns, and he was very concerned.

12:23PM 23 Q. What else did he say?

12:24PM 24 A. I don't recall at that point, I don't recall. Do you

12:24PM 25 have something to refresh my memory?

12:25PM 1 Q. Mr. Selva, I'm going to hand you up Government
12:25PM 2 Exhibit 3540V as in Victor.

12:25PM 3 **MR. SINGER:** What's the letter.

12:26PM 4 **MR. TRIPI:** V as in Victor.

12:26PM 5 That was my mistake. I'm switching to 3540W,
12:26PM 6 Mr. Singer. 3540W.

12:26PM 7 **BY MR. TRIPI:**

12:26PM 8 Q. Mr. Selva, I'm handing that document up. Please review
12:26PM 9 it. Take a moment to read it. When you're done, look up and
12:26PM 10 let me know if it refreshes your recollection to
12:26PM 11 conversations that you had with the defendant after the
12:26PM 12 search warrant at his house.

12:27PM 13 **MR. TRIPI:** Judge, I'm thinking 15 minutes I'll be
12:27PM 14 done.

12:27PM 15 **BY MR. TRIPI:**

12:28PM 16 Q. Have you reviewed the document -- I removed the document,
12:28PM 17 excuse me.

12:28PM 18 Mr. Selva, did that refresh your recollection as to any
12:28PM 19 conversation you had with the defendant after the search
12:28PM 20 warrant at his house?

12:28PM 21 A. It does, yes.

12:28PM 22 Q. Where was that discussion?

12:28PM 23 A. Delaware Park.

12:28PM 24 Q. What were you guys doing?

12:28PM 25 A. Walking and talking, walking around the park.

12:28PM 1 Q. And when you walked and talked, describe the conversation
12:28PM 2 you had for the jury.

12:28PM 3 A. It was regarding Anthony Gerace. He was concerned that
12:28PM 4 he would flip, because he had helped him, meaning be a
12:28PM 5 cooperative witness. He had helped him before on a prior
12:28PM 6 arrest. So, it was a concern. Because Anthony was tied in
12:28PM 7 with Ron Serio and the whole thing that was going on.

12:29PM 8 Q. Mr. Selva, did there come a point in time where you had a
12:29PM 9 conversation with the defendant after the search warrant at
12:29PM 10 his house where the cover story that you had previously
12:29PM 11 discussed came back up?

12:29PM 12 A. Yes.

12:29PM 13 Q. Describe that for the jury, please.

12:29PM 14 A. After the search warrant was issued at his house, again,
12:29PM 15 if anything were to happen for questioning, I was gonna be
12:29PM 16 pulled in for anything, I would say I was a confidential
12:29PM 17 informant for the defendant. Just going over it. And he
12:30PM 18 would go over prepping me for the interviews if anything were
12:30PM 19 to happen.

12:30PM 20 Q. Okay. And did you have some contact over the phone
12:30PM 21 during the months that led up to the search warrant at your
12:30PM 22 house?

12:30PM 23 A. Yes.

12:30PM 24 Q. I have a few more exhibits to show you. We're almost
12:30PM 25 done.

12:30PM 1 **MR. TRIPI:** Government Exhibit 222G, if we can show
12:30PM 2 it just to the witness.

12:30PM 3 **BY MR. TRIPI:**

12:30PM 4 Q. Do you recognize that person?

12:30PM 5 A. Yes.

12:30PM 6 Q. Who do you recognize that to be?

12:30PM 7 A. Mike Masecchia.

12:30PM 8 Q. How do you recognize that?

12:30PM 9 A. I took the picture.

12:30PM 10 Q. Where is that picture located?

12:30PM 11 A. It's in the country in Franklinville.

12:30PM 12 Q. Is that near where the marijuana grows are located?

12:30PM 13 A. Yes, not far.

12:30PM 14 **MR. TRIPI:** The government offers Government
12:30PM 15 Exhibit 222G, Your Honor.

12:31PM 16 **MR. SINGER:** Just one moment, Judge, I'm sorry.

12:31PM 17 No objection, Judge.

12:31PM 18 **THE COURT:** Received without objection.

12:31PM 19 **(GOV Exhibit 222G was received in evidence.)**

12:31PM 20 **MR. TRIPI:** Please publish it, Ms. Champoux.

12:31PM 21 **BY MR. TRIPI:**

12:31PM 22 Q. And what's Mr. Masecchia holding in the photo?

12:31PM 23 A. He's holding a Kel-Tec rifle, and an axe.

12:31PM 24 Q. Were you guys shooting guns that day?

12:31PM 25 A. Yes.

12:31PM 1 **MR. TRIPI:** If we can show the witness Government
12:31PM 2 Exhibit 222H? Just the witness.

12:31PM 3 **BY MR. TRIPI:**

12:31PM 4 Q. Do you recognize that?

12:31PM 5 A. Yes.

12:31PM 6 Q. Is that a photo from the same day?

12:31PM 7 A. Yes.

12:31PM 8 Q. Who's taking that photo?

12:31PM 9 A. Michael Masecchia was.

12:32PM 10 Q. Okay. So now you're in the photo?

12:32PM 11 A. It's me holding the gun and the axe. We were target
12:32PM 12 shooting that day.

12:32PM 13 Q. Does that fairly and accurately depict the photo of you
12:32PM 14 from that day?

12:32PM 15 A. Yes.

12:32PM 16 **MR. TRIPI:** The government offers Exhibit 222H,
12:32PM 17 Your Honor.

12:32PM 18 **MR. SINGER:** No objection.

12:32PM 19 **THE COURT:** Received without objection.

12:32PM 20 **(GOV Exhibit 222H was received in evidence.)**

12:32PM 21 **BY MR. TRIPI:**

12:32PM 22 Q. And this is the same property associated with Masecchia
12:32PM 23 in Franklinville not far from where the marijuana grows are?

12:32PM 24 A. Not far, yes.

12:32PM 25 **MR. TRIPI:** And lastly, could we show the witness

12:32PM 1 Exhibit 222J, please, just the witness.

12:32PM 2 **BY MR. TRIPI:**

12:32PM 3 Q. And do you recognize 222J?

12:32PM 4 A. I do.

12:32PM 5 Q. What do you recognize that to be?

12:32PM 6 A. That's a picture of myself, Michael Masecchia, and Sal
12:32PM 7 Volpe, who is deceased. We were in Florida.

12:32PM 8 Q. You went there together?

12:32PM 9 A. Yeah, I met them down there.

12:32PM 10 Q. What year was that from?

12:32PM 11 A. 2015, '16.

12:33PM 12 Q. Does it fairly and accurately depict you, Masecchia, and
12:33PM 13 Volpe in Florida at that time?

12:33PM 14 A. Yes.

12:33PM 15 **MR. TRIPI:** The government offers Exhibit 222J,
12:33PM 16 Your Honor.

12:33PM 17 **MR. SINGER:** No objection.

12:33PM 18 **THE COURT:** Received without objection.

12:33PM 19 **(GOV Exhibit 222J was received in evidence.)**

12:33PM 20 **MR. TRIPI:** And if we can publish that.

12:33PM 21 **BY MR. TRIPI:**

12:33PM 22 Q. Who's in the middle?

12:33PM 23 A. That's Mike Masecchia.

12:33PM 24 Q. Who's at the far right?

12:33PM 25 A. That's myself -- well, the way I'm looking at it, Sal

12:33PM 1 Volpe, and then myself on the end.

12:33PM 2 Q. Is it not on your screen right next to you?

12:33PM 3 A. Oh, I'm sorry, it is. I didn't see that.

12:33PM 4 Q. And on the far left, who's that?

12:33PM 5 A. On my left, it's Sal Volpe.

12:33PM 6 Q. In the gray shirt?

12:33PM 7 A. Yes.

12:33PM 8 Q. Was Volpe involved in the marijuana grow operations?

12:33PM 9 A. Yes.

12:33PM 10 **MR. TRIPI:** We can take that down.

12:33PM 11 **BY MR. TRIPI:**

12:33PM 12 Q. After the warrants -- the warrant was executed at your

12:34PM 13 house and the evidence we talked about earlier was seized,

12:34PM 14 did you have any encounters with Defendant Bongiovanni?

12:34PM 15 A. After my -- after my --

12:34PM 16 Q. Now it's past August 23rd. Did the defendant and you

12:34PM 17 have -- have an interaction somewhere?

12:34PM 18 A. Yes, we did.

12:34PM 19 Q. Where?

12:34PM 20 A. That one was at -- I was coming out of the gym. And he

12:34PM 21 had pulled up behind me. And we want for a walk, we went to

12:34PM 22 a park. That's TTFA Park in Tonawanda.

12:34PM 23 Q. What's located there? Is there some type of pathway

12:34PM 24 there?

12:34PM 25 A. There's a path, there's a football field there.

12:34PM

1 Q. And what did you guys do?

12:34PM

2 A. We took a walk. We sat on the bench. And told him what
3 had happened. Well, he had heard what had happened at my
4 house. And he had asked if they were asking questions about
5 him. And I said no, nothing at this time. So --

12:35PM

6 Q. And did anything about that encounter strike you as odd?

12:35PM

7 A. It was abrupt, yeah. It did.

12:35PM

8 Q. Describe it for the jury.

12:35PM

9 A. First of all, it startled me. I was walking out of the
10 gym, and then his car just pulled up. And he just usually
11 would call me, but that wasn't the case. So it would seem
12 like a sense of urgency.

12:35PM

13 Q. By that point in time, had HSI set up a camera system at
14 your house because of concerns you had?

12:35PM

15 A. Yes.

12:35PM

16 Q. Did the defendant ask you about the cameras at your
17 house?

12:36PM

18 A. He did.

12:36PM

19 Q. Describe that conversation.

12:36PM

20 A. He must have drove by my house after, and he had
21 mentioned, he says, oh, he goes, you got a camera set up now?

12:36PM

22 And I says, yeah. I go, yeah, after the -- after the
23 search warrant, I went and set up a camera.

12:36PM

24 I didn't tell him it was HSI.

12:36PM

25 Q. Did you form an opinion based upon how that -- how that

1 occurred and the content of your conversation as to what the
2 defendant was doing as it related to you?

3 A. Yes.

4 Q. What was your opinion?

5 A. He was nervous everything was gonna start coming about.

6 And he just wanted to find out as much information as he can
7 from me, what I know.

8 Q. As time went on, did you continue to try to avoid
9 speaking to anybody that you used to be friends with?

10 A. I did at that point, yes. It all ceased.

11 Q. Directing your attention to October 25th, 2019, I'm going
12 to hand up Government Exhibit 209. Do you recognize
13 Government Exhibit 209?

14 A. Yes.

15 Q. What is that?

16 A. It's a pack -- it's a box that was left on my doorstep
17 from the defendant for my birthday.

18 Q. What's in the box?

19 A. A box of Crown Royal, a bottle.

20 Q. By October 25th, 2019, had you ceased contact?

21 A. Yes. We just very, very -- maybe one or two
22 conversations, but there was fairly no contact.

23 Q. Did that bottle -- what did you do when you got that
24 bottle?

25 A. I just put it in my house.

12:37PM 1 Q. Did you turn it over to HSI?

12:37PM 2 A. I did.

12:37PM 3 Q. Were you concerned?

12:37PM 4 A. Yes.

12:37PM 5 Q. Why?

12:37PM 6 A. I don't know. It was just abrupt. I didn't understand

12:38PM 7 why it would be left there, why wouldn't we get together and

12:38PM 8 do it. Just, it seemed odd.

12:38PM 9 Q. Is that box with a bottle in it in the same or

12:38PM 10 substantially same condition as when you found it on your

12:38PM 11 porch?

12:38PM 12 A. Yes.

12:38PM 13 **MR. TRIPI:** The government offers 209, Your Honor.

12:38PM 14 **MR. SINGER:** Can I just see it real quick?

12:38PM 15 No objection, Judge.

12:38PM 16 **THE COURT:** Received without objection.

12:38PM 17 **(GOV Exhibit 209 was received in evidence.)**

12:38PM 18 **MR. TRIPI:** May I publish, just pass it around for

12:38PM 19 the jury?

12:39PM 20 **BY MR. TRIPI:**

12:39PM 21 Q. Was there a little message written on the bag?

12:39PM 22 A. There was.

12:39PM 23 Q. Just a few more questions, Mr. Selva, and then I'm going

12:39PM 24 to wrap up.

12:39PM 25 Did the defendant ever tell you how the Serio

12:39PM 1 investigation concluded in his office?

12:39PM 2 A. No, he did not.

12:39PM 3 Q. Has the last day and a half been hard for you, Mr. Selva?

12:39PM 4 A. Very hard.

12:39PM 5 Q. Have you been honest with this jury?

12:39PM 6 A. Yes.

12:39PM 7 Q. Are you proud of what you were a part of here?

12:39PM 8 A. Not at all.

12:39PM 9 Q. Are you happy to be testifying against your childhood
12:39PM 10 best friend?

12:39PM 11 A. Not at all.

12:39PM 12 **MR. TRIPI:** I have no further direct, Your Honor.

12:39PM 13 **THE COURT:** Okay. So we are going to break now for
12:40PM 14 lunch. Please remember my instructions about not talking
12:40PM 15 about the case with anyone, including each other.

12:40PM 16 Don't do any research on your own. Don't use tools
12:40PM 17 of technology to research about the case or to communicate
12:40PM 18 about the case. Don't read, or listen to, or watch any news
12:40PM 19 coverage of the case, if there is any, while the case is still
12:40PM 20 on trial.

12:40PM 21 And don't make up your mind about any fact or issue
12:40PM 22 until all the evidence has been presented, and the case is
12:40PM 23 finally submitted to you.

12:40PM 24 Let's come back at 2:00. I have a matter that I have
12:40PM 25 to handle at the lunch hour, so let's come back at 2:00.

12:40PM 1 Okay? We'll see you then.

12:40PM 2 (Jury excused at 12:40 p.m.)

12:41PM 3 **THE COURT:** You can step down, Mr. Selva.

12:41PM 4 Anything we need to put on the record from the
12:41PM 5 government?

12:41PM 6 **MR. TRIPI:** Not from our perspective.

12:41PM 7 **THE COURT:** Anything from the defense?

12:41PM 8 **MR. SINGER:** I'll warn the witness not to talk to
12:41PM 9 anyone over the lunch break.

12:41PM 10 **THE COURT:** Yeah. So, Mr. Selva, you're not to talk
12:41PM 11 with anyone on the lunch break, okay, about --

12:41PM 12 **THE WITNESS:** Yes.

12:41PM 13 **THE COURT:** -- about this case.

12:41PM 14 **THE WITNESS:** Yes.

12:41PM 15 **THE COURT:** In any way at all.

12:41PM 16 **THE WITNESS:** Yes.

12:41PM 17 **THE COURT:** Okay. Thank you. Anything else?

12:41PM 18 **MR. SINGER:** No.

12:41PM 19 **MR. TRIPI:** We didn't have to refrain on direct, but
12:41PM 20 we didn't speak overnight either, Judge. That won't be a
12:41PM 21 problem.

12:41PM 22 **THE COURT:** Yeah, no, I wouldn't -- I wouldn't expect
12:41PM 23 anything different.

12:41PM 24 So, we'll see you folks at 2:00. You'll have to
12:41PM 25 clean up a little bit because we've got folks coming in.

12:42PM

1 **MR. TRIPI:** We will.

12:42PM

2 **THE COURT:** They'll be from your office, actually.

12:42PM

3 **MR. COOPER:** Maybe we'll leave them the mess.

12:42PM

4 (Off the record at 12:42 p.m.)

12:42PM

5 (Back on the record at 2:02 p.m.)

02:02PM

6 (Jury not present.)

02:02PM

7 **THE CLERK:** All rise.

02:02PM

8 **THE COURT:** Please be seated.

02:02PM

9 **THE CLERK:** We are back on the record for the

02:02PM

10 continuation of the jury trial in case number 19-cr-227,

02:02PM

11 United States of America versus Joseph Bongiovanni.

02:02PM

12 All counsel and parties are present.

02:02PM

13 **THE COURT:** Okay. So, some juror notes that I'd like

02:02PM

14 to go over with you folks, juror notes to me.

02:02PM

15 **MR. TRIPI:** Yes, Your Honor.

02:02PM

16 **THE COURT:** So first of all, juror number 7 has --

02:02PM

17 **MR. DICKSON:** Judge, Mr. Selva is in the room.

02:02PM

18 **THE COURT:** You should leave. There's no reason for

02:02PM

19 you to be here for this.

02:03PM

20 Good catch. Thank you, Mr. Dickson.

02:03PM

21 I don't think it's a particularly big deal that he

02:03PM

22 was here, but you're right, probably better that he be

02:03PM

23 excused.

02:03PM

24 So juror number 7 has two appointments that can't be

02:03PM

25 changed on March 7th and March 19th, and he or she needs to

02:03PM 1 leave by 4:30 on those days. Not a big deal, obviously, we'll
02:03PM 2 just quit at 4:30 on those days.

02:03PM 3 Juror number 9 was informed by her employer that
02:03PM 4 she's only being compensated for four days, \$40 per day. She
02:03PM 5 wants to stay, but she's wondering if this is okay, if this is
02:03PM 6 proper.

02:03PM 7 I don't know the answer to that myself, but she does
02:03PM 8 want to stay and remain on the jury it says, so I don't know
02:03PM 9 if we should bring her in and talk to her about it and find
02:03PM 10 out if she's going to be distracted. I don't know.

02:03PM 11 **MR. TRIPI:** Yeah. As to whether it's proper, Judge,
02:03PM 12 I do think that, just like the law firm didn't have to pay, I
02:03PM 13 think they don't have to pay.

02:03PM 14 **THE COURT:** I think that's probably right.

02:04PM 15 **MR. TRIPI:** But I defer to you if you want to talk to
02:04PM 16 her about it.

02:04PM 17 **THE COURT:** Thoughts?

02:04PM 18 **MR. MacKAY:** We'll defer to the Court if there's any
02:04PM 19 inquiry needed. I mean, it sounds like she's expressed a
02:04PM 20 desire to stay.

02:04PM 21 **THE COURT:** It says, wants to say.

02:04PM 22 **MR. MacKAY:** So I assume that that means she can
02:04PM 23 overcome the financial hurdle.

02:04PM 24 **THE COURT:** Yeah. Okay.

02:04PM 25 And then number 3 is the more troubling -- or, not

02:04PM 1 troubling, but maybe troubling. Number 12 says -- I'll read
02:04PM 2 it exactly as I have it here.

02:04PM 3 Juror was vague, so after request for more specific
02:04PM 4 information, he said his daughter is a health care aid for a
02:04PM 5 Buffalo attorney whose granddaughter might be connected to
02:04PM 6 someone on the prosecution side.

02:04PM 7 That's all the information he could provide.

02:04PM 8 And he also wants to know if he can make notes during
02:04PM 9 the breaks or at home in the evening.

02:04PM 10 As to the latter, I don't see any reason why he can't
02:05PM 11 make notes for himself. I mean --

02:05PM 12 **MR. TRIPI:** I wouldn't -- maybe not at home.

02:05PM 13 **MR. SINGER:** Yeah.

02:05PM 14 **MR. TRIPI:** I think that if you're okay with them
02:05PM 15 taking notes, they need to stay here.

02:05PM 16 **THE COURT:** Yeah, well, I'm not okay with them taking
02:05PM 17 notes during the case, but I don't see why he can't do on his
02:05PM 18 own time what he wants to do on his own time. If he wants to
02:05PM 19 go home and write down what he remembers from the day --

02:05PM 20 **MR. TRIPI:** I've never had that come up, Judge. My
02:05PM 21 gut reaction was that I've always had jurors who took notes
02:05PM 22 keep them here, so that was --

02:05PM 23 **THE COURT:** No question, if they're taking notes
02:05PM 24 during the trial in the courtroom, yeah, absolutely, no
02:05PM 25 question.

02:05PM 1 **MR. MacKAY:** Can we take a moment?

02:05PM 2 **THE COURT:** Absolutely. Take your time and talk

02:05PM 3 about it, yeah. I've never had this come up either.

02:06PM 4 **MR. TRIPI:** Mr. Cooper would like to address it,

02:06PM 5 Judge.

02:06PM 6 **THE COURT:** Sure.

02:06PM 7 **MR. COOPER:** Hi, Judge.

02:06PM 8 **THE COURT:** Hi.

02:06PM 9 **MR. COOPER:** I'm thinking through it for the first

02:06PM 10 time, as well. But I guess my concern is if the juror's

02:06PM 11 taking notes and leaving them at home specifically, or outside

02:06PM 12 of the courthouse, other people can access them. Which is --

02:06PM 13 our process is designed to prevent that, not just to have the

02:06PM 14 juror not impacted, but to have the juror's thoughts not

02:06PM 15 publicized. And so while this juror is under an obligation to

02:06PM 16 this Court not do such things, family members, friends,

02:06PM 17 whoever comes and goes from the house, a cleaning lady or

02:06PM 18 cleaning man, that wouldn't necessarily be the case.

02:06PM 19 And so I'm -- the government would be opposed to

02:06PM 20 allowing a juror to keep notes outside of this building.

02:06PM 21 **THE COURT:** That's a good observation.

02:06PM 22 Go ahead.

02:06PM 23 **MR. MacKAY:** And, Judge, the other concern is

02:06PM 24 obviously recollection. I know the Court's going to tell the

02:06PM 25 jurors what happens in here controls, the transcript can be

02:06PM 1 shown to you, and there's also beyond any sort of privacy
02:07PM 2 concern, there's the concern that this juror is going to go
02:07PM 3 home and sort of refresh himself in something that's one or
02:07PM 4 two hours removed, and come back and lecture the jury on what
02:07PM 5 they think happened.

02:07PM 6 **THE COURT:** Exactly. I was thinking the same thing
02:07PM 7 as Mr. Cooper was speaking, the flip side of that is the
02:07PM 8 problem if he brings the notes in, and now I've got notes, and
02:07PM 9 that's different.

02:07PM 10 So yeah, I think you're right. I think we'll tell
02:07PM 11 him the answer to that is no. Both sides are seeming to come
02:07PM 12 to that conclusion; it sounds like, correct?

02:07PM 13 **MR. MacKAY:** Correct.

02:07PM 14 **MR. COOPER:** Yes, Judge.

02:07PM 15 **THE COURT:** Okay.

02:07PM 16 **MR. COOPER:** And can you reread for us just the
02:07PM 17 portion of the note that related to his daughter is a
02:07PM 18 healthcare --

02:07PM 19 **THE COURT:** He said his daughter is a healthcare aide
02:07PM 20 for a Buffalo attorney whose granddaughter might be connected
02:07PM 21 to someone on the prosecution side.

02:07PM 22 **MR. COOPER:** Can we bring the juror in --

02:07PM 23 **THE COURT:** Absolutely.

02:07PM 24 **MR. COOPER:** -- and address that?

02:07PM 25 **THE COURT:** That's exactly what I think. Yeah,

02:07PM 1 that's exactly what I think.

02:07PM 2 And then before we bring him in, one last thing that
02:07PM 3 I want to tell you folks that I should have told you yesterday
02:07PM 4 that I forgot, but one of my law clerks, who is listening but
02:07PM 5 not working on this case, as she heard the testimony
02:08PM 6 yesterday, her name is Chelsea. And when she heard the
02:08PM 7 testimony about the defendant's daughter, she believes that
02:08PM 8 she went to school with the defendant's daughter, and may have
02:08PM 9 been on the same basketball team.

02:08PM 10 Did your daughter play basketball?

02:08PM 11 **THE DEFENDANT:** She did.

02:08PM 12 **THE COURT:** They may have been on the same basketball
02:08PM 13 team. She didn't know the Chelsea who she played basketball
02:08PM 14 with's last name, or didn't remember her last name. But when
02:08PM 15 she heard the testimony yesterday, she said I think that's the
02:08PM 16 girl that I used to play basketball with.

02:08PM 17 So she confided -- not confided, she told me that,
02:08PM 18 and I said I would share it with the lawyers. She's not
02:08PM 19 working on the case. It's got nothing to do with anything,
02:08PM 20 but I just don't want any surprises to come up later on down
02:08PM 21 the road.

02:08PM 22 Any problem from the defense with that?

02:08PM 23 **MR. MacKAY:** No, Your Honor.

02:08PM 24 **THE COURT:** From the government?

02:08PM 25 **MR. TRIPI:** No, Your Honor.

02:08PM 1 **THE COURT:** And again, I wanted -- especially in a
02:08PM 2 case of this high a profile, I want to make sure that we are
02:08PM 3 being completely transparent about everything that seems
02:08PM 4 innocuous. If my law clerk didn't tell me that, I wouldn't
02:08PM 5 have found fault with that, but she did, and so I share that
02:09PM 6 with you.

02:09PM 7 Let's bring in Juror Number 12, please. Do we have a
02:09PM 8 microphone?

02:09PM 9 (Juror 12 entered the courtroom at 2:09 p.m.)

02:09PM 10 **JUROR 12:** Do you want me to go there?

02:09PM 11 **THE COURT:** No, stay right there. Stay right there.

02:10PM 12 So, juror number 12, thank you for coming in. I
02:10PM 13 received a note that you told our court security officer that
02:10PM 14 your daughter is a healthcare aide for a Buffalo attorney
02:10PM 15 whose granddaughter might be connected to someone on the
02:10PM 16 prosecution side.

02:10PM 17 **JUROR 12:** Yeah, I don't know any names, I'm very
02:10PM 18 distant from it all. I just know the attorney is an attorney
02:10PM 19 that used to work for the Buffalo Bills.

02:10PM 20 **THE COURT:** And you don't know who the --

02:10PM 21 **JUROR 12:** I don't know anything.

02:10PM 22 **THE COURT:** You don't know the attorney's name?

02:10PM 23 **JUROR 12:** No.

02:10PM 24 **THE COURT:** Okay. So I take it your daughter told
02:10PM 25 you that the attorney's granddaughter might be associated with

02:10PM 1 someone on the prosecution side?

02:10PM 2 **JUROR 12:** Yeah.

02:10PM 3 **THE COURT:** Were you talking to your daughter about
02:10PM 4 the case?

02:10PM 5 **JUROR 12:** No.

02:10PM 6 **THE COURT:** Okay. She just volunteered that for you?

02:10PM 7 **JUROR 12:** Yeah.

02:10PM 8 **THE COURT:** Okay. Anything about that that makes you
02:10PM 9 feel as though you'd favor one side or the other?

02:10PM 10 **JUROR 12:** Not a bit.

02:10PM 11 **THE COURT:** Do you still think you can give the
02:10PM 12 defendant a fair shake here?

02:10PM 13 **JUROR 12:** Yes.

02:10PM 14 **THE COURT:** And the government?

02:11PM 15 **JUROR 12:** Yes.

02:11PM 16 **THE COURT:** Anything that anybody wants to follow up?

02:11PM 17 **MR. MacKAY:** No, Judge.

02:11PM 18 **MR. COOPER:** We have nothing. Thank you, Judge.

02:11PM 19 **THE COURT:** Great. Thank you for bringing it to our
02:11PM 20 attention.

02:11PM 21 And then you've also asked if you can take notes --

02:11PM 22 **JUROR 12:** At home.

02:11PM 23 **THE COURT:** -- during breaks or home, and the answer
02:11PM 24 is no. We don't want any -- and the reason is we don't want
02:11PM 25 there to be the opportunity for somebody to get ahold of those

02:11PM 1 notes, and we don't want you to bring them into the court
02:11PM 2 because they might unduly influence the other jurors.

02:11PM 3 We want all of you to be in the same position with
02:11PM 4 respect to remembering the evidence and the testimony that was
02:11PM 5 given during the course of the trial.

02:11PM 6 So the answer is no, we don't want you to make notes
02:11PM 7 at all.

02:11PM 8 **JUROR 12:** Can I just bring up the reason why?

02:11PM 9 **THE COURT:** Say that again?

02:11PM 10 **JUROR 12:** Can I bring up my reason why?

02:11PM 11 **THE COURT:** Sure.

02:11PM 12 **JUROR 12:** It's like a chess game. There are at
02:11PM 13 least 32 pieces on the game board, and each of them has their
02:11PM 14 own name, and their own background, and I'm just trying to
02:11PM 15 keep them straight.

02:11PM 16 **THE COURT:** Yeah. So we're going to have a photo
02:11PM 17 board for you to try to help you remember.

02:11PM 18 And you folks can ask for testimony to be read back
02:11PM 19 at the end, if you need it read back.

02:12PM 20 So, again, and I know it can be difficult trying to
02:12PM 21 keep everything straight, but that's what we want you to do.

02:12PM 22 **JUROR 12:** Okay.

02:12PM 23 **THE COURT:** Okay? Thank you.

02:12PM 24 **JUROR 12:** Yep.

02:12PM 25 (Juror 12 excused at 2:12 p.m.)

02:12PM 1 **THE COURT:** Okay. Any exceptions to the way I
02:12PM 2 handled that?

02:12PM 3 **MR. TRIPI:** No, Your Honor.

02:12PM 4 **MR. MacKAY:** No, Your Honor.

02:12PM 5 **THE COURT:** Okay. Great. Are we ready to bring them
02:12PM 6 back?

02:12PM 7 **MR. TRIPI:** Yes, Judge. We'll get the witness up.

02:12PM 8 **THE COURT:** Yeah, let's get the witness in. Any --
02:12PM 9 are you treated start your cross?

02:12PM 10 **MR. SINGER:** I'm ready, Judge.

02:12PM 11 **THE COURT:** Okay. Let's wait for the witness to come
02:12PM 12 in, then we'll bring the jurors back in, Pat, please.

02:12PM 13 Okay. You can bring them in, please, Pat.

02:13PM 14 (Jury seated at 2:13 p.m.)

02:14PM 15 **THE COURT:** Okay. Welcome back, everyone. The
02:14PM 16 record will reflect all our jurors are present.

02:14PM 17 Before we start the cross-examination, I understand
02:14PM 18 that one juror has indicated that there are appointments that
02:14PM 19 he or she has, and needs to leave by 4:30 p.m. on a couple of
02:14PM 20 dates. We have marked those dates down, and you folks will be
02:14PM 21 able to leave at 4:30 on those dates.

02:14PM 22 And another juror has indicated that her compensation
02:14PM 23 from her -- I think her -- compensation from her employer is
02:14PM 24 less than she expected, and wants to know -- the note to me
02:14PM 25 says wants to stay, but wondering if this is proper.

02:14PM 1 The short answer is yes, unless there are, there
02:14PM 2 might be certain government employers or other employers who
02:14PM 3 are required to provide pay for jury duty. But the short
02:15PM 4 answer is that most employers and private employers can do
02:15PM 5 that. So, that's the long and the short of it. That's why we
02:15PM 6 asked whether there was any big financial hardship for you
02:15PM 7 folks when we picked you.

02:15PM 8 So those are the two answers. Okay?

02:15PM 9 I remind the witness that he's still under oath.

02:15PM 10 If I didn't say so already, I should have said that
02:15PM 11 all our jurors are present.

02:15PM 12 And, Mr. Singer, you can begin.

02:15PM 13 **MR. SINGER:** Thank you very much, Judge.

02:15PM 14

02:15PM 15 **CROSS-EXAMINATION BY MR. SINGER:**

02:15PM 16 Q. Good afternoon, Mr. Selva.

02:15PM 17 A. Good afternoon.

02:15PM 18 Q. You didn't speak to anybody during the lunch hour,
02:15PM 19 correct?

02:15PM 20 A. No, sir.

02:15PM 21 Q. Thank you.

02:15PM 22 So I think you testified on direct that you've known
02:15PM 23 Mr. Bongiovanni for a long time, correct?

02:15PM 24 A. Correct.

02:15PM 25 Q. And you guys grew up together, correct?

02:15PM 1 A. Yes, sir.

02:15PM 2 Q. You first met each other at P.S. 81?

02:15PM 3 A. Yes, sir.

02:15PM 4 Q. And that was in what grade again?

02:16PM 5 A. I believe sixth.

02:16PM 6 Q. Sixth grade. And you guys have maintained a friendship

02:16PM 7 since that time?

02:16PM 8 A. Yes.

02:16PM 9 Q. So, elementary school? I think you sometimes went to the

02:16PM 10 same high school -- elementary school, you went to the same

02:16PM 11 elementary school, right?

02:16PM 12 A. Yes.

02:16PM 13 Q. Middle school. Did you go to the same middle school or

02:16PM 14 not?

02:16PM 15 A. No, P.S. 81 was grade K through 8.

02:16PM 16 Q. All the way through 8th. And then when it got to high

02:16PM 17 school, you were together sometimes, and not together other

02:16PM 18 times; fair to say?

02:16PM 19 A. Well, we went to freshman, junior -- excuse me.

02:16PM 20 Freshman, sophomore, and junior year, and half of senior

02:16PM 21 year.

02:16PM 22 Q. Not senior year?

02:16PM 23 A. Half.

02:16PM 24 Q. When you guys weren't in the same school in high school,

02:16PM 25 did you still keep up?

02:16PM 1 A. Yes, sir.

02:16PM 2 Q. And that's because you lived in the same neighborhood?

02:16PM 3 A. Yes.

02:16PM 4 Q. All right. And then I guess after high school

02:16PM 5 graduation, Mr. Bongiovanni's attending college at that point

02:16PM 6 in time, right?

02:16PM 7 A. Yes, he had moved to Boston, and I was in the Air Force.

02:17PM 8 Q. And you were in the Air Force for a little bit of time,

02:17PM 9 and you were discharged; is that right?

02:17PM 10 A. Yes, six months. Correct. Separated, yes.

02:17PM 11 Q. You mentioned that you got a general discharge; is that

02:17PM 12 right?

02:17PM 13 A. It was a separation. A separation under general -- I'd

02:17PM 14 have to look the DD 214, but it was a separation.

02:17PM 15 Q. So I know like sometimes if you're enlisted and things

02:17PM 16 aren't working out in the beginning, you can get what's

02:17PM 17 called an entry level separation, which is done pretty

02:17PM 18 quickly within the first couple of months of your service

02:17PM 19 after you get out of boot camp or while you're in boot camp.

02:17PM 20 Did that happen in your situation?

02:17PM 21 A. No, it was after -- it was during tech school.

02:17PM 22 Q. Okay. So when you're doing your apprenticeship school?

02:17PM 23 A. Yes.

02:17PM 24 Q. Learning what you're going to do --

02:17PM 25 A. Yes.

02:17PM 1 Q. -- in your occupation in the military?

02:17PM 2 A. Yes.

02:17PM 3 Q. And -- and the reason why you were separated again is
02:17PM 4 things weren't working out?

02:17PM 5 A. Yes. It was the wrong position for me.

02:17PM 6 Q. And I know you talked about it, you didn't go to court
02:17PM 7 martial or anything like that, correct?

02:17PM 8 A. No.

02:17PM 9 Q. So it was an administrative separation?

02:17PM 10 A. It was an administrative separation, yes.

02:18PM 11 Q. Okay. And you characterize it as a general discharge?

02:18PM 12 A. Just a separation. It's not dishonorable, so I guess
02:18PM 13 that would be general.

02:18PM 14 Q. Okay. So, after that happens, you kind of get back in
02:18PM 15 town, and fair to say during the time you were in the Air
02:18PM 16 Force, where were you stationed, sir?

02:18PM 17 A. Went from Lachland to Sheppard Air Force Base.

02:18PM 18 Q. So that wasn't in the Buffalo area, correct?

02:18PM 19 A. No, sir. No. When I was in back in Buffalo, I was out.
02:18PM 20 I was separated from the Air Force.

02:18PM 21 Q. And while you're in the Air Force, you're in a training
02:18PM 22 environment, right?

02:18PM 23 A. I'm sorry?

02:18PM 24 Q. You're in a training environment when you're in the Air
02:18PM 25 Force?

02:18PM 1 A. Yes.

02:18PM 2 Q. So drill instructors and everybody else is controlling

02:18PM 3 when you can call home, right?

02:18PM 4 A. Yes.

02:18PM 5 Q. So you may have dropped off with your contact with

02:18PM 6 Mr. Bongiovanni during that point in your life?

02:18PM 7 A. Yes, during that point, yes.

02:18PM 8 Q. Okay. And then eventually you make it back into town,

02:18PM 9 correct?

02:18PM 10 A. Correct.

02:18PM 11 Q. You guys talk on the phone at that point in time?

02:18PM 12 A. Yes. We're reconnecting. He had came back from, I

02:19PM 13 believe, Boston at that time.

02:19PM 14 Q. Were you still living back at your parents' house --

02:19PM 15 A. Yes.

02:19PM 16 Q. -- in North Buffalo?

02:19PM 17 A. Yes.

02:19PM 18 Q. And he was still living back with his parents on

02:19PM 19 Lovering?

02:19PM 20 A. Yes.

02:19PM 21 Q. All right. And then eventually he gets into a

02:19PM 22 relationship, correct?

02:19PM 23 A. Yes.

02:19PM 24 Q. And he gets married, correct?

02:19PM 25 A. Well, not right away.

02:19PM

1 Q. Not right away?

02:19PM

2 A. Not from that sequence of events, but eventually at that
3 point he had a girlfriend.

02:19PM

4 Q. And so eventually his girlfriend relationship blossoms,
5 and they get married, right?

02:19PM

6 A. Not with the girl he was with when we were younger, no.

02:19PM

7 Q. So a couple different girlfriends, right?

02:19PM

8 A. Yes.

02:19PM

9 Q. All right. And so towards the mid 1990s, he starts to
10 settle down and get married, right?

02:19PM

11 A. Yes.

02:19PM

12 Q. And same thing goes for you, correct?

02:19PM

13 A. I got married in the -- '92. Right around there.

02:19PM

14 Q. Um-hum.

02:20PM

15 A. Yes.

02:20PM

16 Q. And, so, I know you're younger at that point in time, but
17 when you're married, probably tend to go out a little less
18 than you normally did, right?

02:20PM

19 A. Yeah.

02:20PM

20 Q. Okay. And then at some point in time, Mr. Bongiovanni
21 decides to join the DEA, correct?

02:20PM

22 A. Correct.

02:20PM

23 Q. And to join the DEA, he has to go to his own type of
24 qualification school, training academy, right?

02:20PM

25 A. Yes.

02:20PM

1 Q. That's not located here in Buffalo, correct?

02:20PM

2 A. No, sir.

02:20PM

3 Q. And, so, fair to say probably didn't speak with him much
4 at that point in time in his life?

02:20PM

5 A. No. I was in Las Vegas living, and I believe that's when
6 he had applied to the DEA.

02:20PM

7 Q. Um-hum. And then after he completes his DEA training
8 pipeline, he gets sent down to Florida, right?

02:20PM

9 A. Yes.

02:20PM

10 Q. And he goes down there with his wife JoAnn at the time,
11 and they make their house down in Florida, correct?

02:20PM

12 A. Yes.

02:20PM

13 Q. And I think you testified yesterday that there weren't
14 any situations where you had visited him in Florida, correct?

02:21PM

15 A. I'm sorry?

02:21PM

16 Q. There weren't any situations where you went and visited
17 him in Florida?

02:21PM

18 A. Correct, I did not.

02:21PM

19 Q. Okay. So your contact at that point in time was purely
20 by telephone?

02:21PM

21 A. By telephone, yes.

02:21PM

22 Q. And I think you testified yesterday that it was sporadic,
23 as a way to describe it?

02:21PM

24 A. Yeah. I mean, we both had lives at that point.

02:21PM

25 Q. Um-hum. And then after that, Mr. Bongiovanni, at some

02:21PM 1 point in 2001, moved back to Buffalo, correct?

02:21PM 2 A. Correct.

02:21PM 3 Q. And you're back in Buffalo at that point in time, right?

02:21PM 4 A. Yes.

02:21PM 5 Q. So, he, at that point in time, I think as you testified

02:21PM 6 and as we heard earlier, he had some marital difficulties,

02:21PM 7 correct?

02:21PM 8 A. Correct.

02:21PM 9 Q. And he and his wife separated, correct?

02:21PM 10 A. Correct.

02:21PM 11 Q. He started living back home again with his parents,

02:21PM 12 correct?

02:21PM 13 A. Yes, correct.

02:21PM 14 Q. And eventually got divorced about two years later,

02:21PM 15 correct?

02:22PM 16 A. I believe so, yes.

02:22PM 17 Q. So, when he get back into town, what's your marital

02:22PM 18 situation at that point?

02:22PM 19 A. I was going through -- 2001 I was divorced. So --

02:22PM 20 Q. It was official at that point?

02:22PM 21 A. It was official, yes.

02:22PM 22 Q. So after the separation that Mr. Bongiovanni had from his

02:22PM 23 first wife, JoAnn, you guys start to get back together again,

02:22PM 24 correct?

02:22PM 25 A. Correct.

02:22PM 1 Q. And then after the divorce in 2003, for Mr. Bongiovanni,
02:22PM 2 you start hanging out at the bars again?

02:22PM 3 A. Yeah, when it seemed fit, sure, yes.

02:22PM 4 Q. And at that point in time, where are you living, sir?

02:22PM 5 A. 2003?

02:22PM 6 Q. Correct.

02:22PM 7 A. I was living in Rebecca Park. 128 Rebecca Park.

02:22PM 8 Q. So you're over at Rebecca Park at that time?

02:22PM 9 A. Yes.

02:22PM 10 Q. And you guys would see each other out from time to time?

02:22PM 11 A. Yes.

02:22PM 12 Q. You wold talk on the phone from time to time?

02:22PM 13 A. Yes.

02:22PM 14 Q. It wasn't a situation like where you guys were talking
02:23PM 15 every single day, correct?

02:23PM 16 A. No, just like normal friends did. You reach out, that
02:23PM 17 type thing.

02:23PM 18 Q. And, so, moving kind of forward into 2004, you remember

02:23PM 19 that Mr. Bongiovanni started dating another lady at that
02:23PM 20 point, correct?

02:23PM 21 A. Yes.

02:23PM 22 Q. And he eventually started moving that into a committed
02:23PM 23 relationship; is that right?

02:23PM 24 A. Yes.

02:23PM 25 Q. And I think you testified yesterday, they didn't live

02:23PM 1 together, right?

02:23PM 2 A. No.

02:23PM 3 Q. But they were still in a relationship together?

02:23PM 4 A. Yes.

02:23PM 5 Q. And so, during that period of time, you recall that he

02:23PM 6 dated this one woman from 2004 to roughly about 2008?

02:23PM 7 A. Yes, around that time frame, that's correct.

02:23PM 8 Q. Okay. And since he was in a committed relationship at

02:23PM 9 that point in time, he's not going out on the town as a

02:23PM 10 single guy at that point in time with you, correct?

02:23PM 11 A. Between -- no, we talked though. We did still

02:23PM 12 communicate and go out, yes.

02:23PM 13 Q. Yeah, I don't think there's any doubt that you guys

02:24PM 14 talked.

02:24PM 15 A. That's right. And we did connect, too. We'd still talk

02:24PM 16 and meet out.

02:24PM 17 Q. But it was kind of from time to time when you guys made

02:24PM 18 plans.

02:24PM 19 A. We made time, yes.

02:24PM 20 Q. And it wasn't something that was every day?

02:24PM 21 A. No.

02:24PM 22 Q. Because he had his own life, correct?

02:24PM 23 A. Yes.

02:24PM 24 Q. And you had yours, correct?

02:24PM 25 A. Yes.

02:24PM 1 Q. And so as far as, I guess, into 2008, so he eventually
02:24PM 2 breaks it off with that one lady, correct?

02:24PM 3 A. With that relationship, right around that time frame.
02:24PM 4 2008, 2009.

02:24PM 5 Q. Um-hum. And then going into 2009, that's when he meets
02:24PM 6 his current wife, Lindsay, correct?

02:24PM 7 A. Short after, yes, that time frame. After that, yes.

02:24PM 8 Q. Okay. And I know they don't live together at first,
02:24PM 9 correct?

02:24PM 10 A. No.

02:24PM 11 Q. She's actually a tenant in the Lovering duplex that he
02:24PM 12 has?

02:24PM 13 A. Yes.

02:24PM 14 Q. But when they get into a committed relationship, she
02:24PM 15 eventually moves in in 2010, correct?

02:24PM 16 A. That's correct.

02:24PM 17 Q. And they live at that place on Lovering together for a
02:25PM 18 period of time, correct?

02:25PM 19 A. Correct.

02:25PM 20 Q. And then eventually, they purchase a house in Tonawanda;
02:25PM 21 is that right?

02:25PM 22 A. Yes, before they were married.

02:25PM 23 Q. Um-hum. That's the 85 Alder Place house?

02:25PM 24 A. Yes.

02:25PM 25 Q. So, 85 Alder Place, your recollection is they move out

02:25PM 1 there sometime in 2012 time period?

02:25PM 2 A. I believe so, yes.

02:25PM 3 Q. Okay.

02:25PM 4 A. Yes, they do.

02:25PM 5 Q. They do. And so they kind of make the transition out of
02:25PM 6 the old neighborhood and into the suburbs, right?

02:25PM 7 A. Correct.

02:25PM 8 Q. And Joe's committed to Lindsay at this point in time,
02:25PM 9 right?

02:25PM 10 A. Yes.

02:25PM 11 Q. And fair to say that, you know, now that he's not
02:25PM 12 downtown, and he's in this relationship in the suburbs,
02:25PM 13 you're seeing a little less of him at that point in time?

02:25PM 14 A. Yes. But we would still keep in touch and still get
02:25PM 15 together.

02:25PM 16 Q. Yeah, and I don't think there's any dispute about that,
02:25PM 17 you guys have phone calls from time to time, right?

02:25PM 18 A. Yeah. Absolutely.

02:25PM 19 Q. You guys, at that point, you know, this is 2012, 2013,
02:25PM 20 text messages are a thing, correct?

02:25PM 21 A. Yes.

02:25PM 22 Q. So you guys would text on the phone together?

02:26PM 23 A. Yes.

02:26PM 24 Q. And from time to time, guys night out, you'd go meet up
02:26PM 25 at a bar?

02:26PM 1 A. Yes.

02:26PM 2 Q. Have a couple drinks?

02:26PM 3 A. Yes.

02:26PM 4 Q. Catch up with each other?

02:26PM 5 A. Yes.

02:26PM 6 Q. Sometimes do it with other people?

02:26PM 7 A. Yes.

02:26PM 8 Q. Okay. But it wasn't a situation where you talked to him

02:26PM 9 every single day, right?

02:26PM 10 A. No. A few times a week, three times a week.

02:26PM 11 Q. So three times a week?

02:26PM 12 A. Three, four times a week. It really depended, but we

02:26PM 13 kept in touch. We always kept in touch.

02:26PM 14 Q. Yeah. Your recollection is you talked to him three to

02:26PM 15 four times a week?

02:26PM 16 A. On the phone, you know, we just -- as you call your

02:26PM 17 friend, three to four times a week. Sometimes less,

02:26PM 18 sometimes more, it really depended.

02:26PM 19 Q. How long were these conversations?

02:26PM 20 A. What's going on? How are you? What's happening? You

02:26PM 21 know, you catch up briefly, and you hang up.

02:26PM 22 Q. So they're pretty brief conversations?

02:26PM 23 A. Some were, some weren't.

02:26PM 24 Q. Okay. So, in 2013, and kind of moving forward after

02:27PM 25 that, once he moves out to Tonawanda, you guys are together

02:27PM 1 for certain special events; is that right?

02:27PM 2 A. Yes.

02:27PM 3 Q. So, like, for instance, he mentioned yesterday that you
02:27PM 4 were at the Bongiovanni's wedding in 2015 in Cabo San Lucas?

02:27PM 5 A. Yes.

02:27PM 6 Q. That's a special event, correct?

02:27PM 7 A. Yes.

02:27PM 8 Q. You know, and I guess you guys had mutual friends like
02:27PM 9 you testified on direct, correct?

02:27PM 10 A. Yes.

02:27PM 11 Q. And sometimes, unfortunately, those people may get ill or
02:27PM 12 they may pass away, correct?

02:27PM 13 A. Correct.

02:27PM 14 Q. Or their parents may get ill and pass away?

02:27PM 15 A. Correct.

02:27PM 16 Q. And so there were certain situations where you would find
02:27PM 17 yourself together with Mr. Bongiovanni in those situations,
02:27PM 18 right?

02:27PM 19 A. Correct. You're referencing like a wake or a funeral.

02:27PM 20 Q. Yeah. So for a wake, you'd see Mr. Bongiovanni --

02:27PM 21 A. Yes.

02:27PM 22 Q. -- if there was a wake for a friend or family member that
02:27PM 23 was close to one of you, correct?

02:27PM 24 A. Yes.

02:27PM 25 Q. And when you got sick in -- was it 2017 or 2016?

02:28PM 1 A. When I got sick?

02:28PM 2 Q. Correct.

02:28PM 3 A. It was 2017.

02:28PM 4 Q. 2017. You had a benefit back in June of 2017 for

02:28PM 5 yourself; is that right?

02:28PM 6 A. Yeah. June or July -- I believe it was -- yes, it was

02:28PM 7 June. June.

02:28PM 8 Q. And I think you mentioned that was at Knights of

02:28PM 9 Columbus?

02:28PM 10 A. Correct.

02:28PM 11 Q. And so that was something that people you know put on for

02:28PM 12 you just to help you without some medical expenses, right?

02:28PM 13 A. Correct. I just had open-heart surgery, and I had a lot

02:28PM 14 of expenses, correct.

02:28PM 15 Q. So that was another event that Mr. Bongiovanni attended,

02:28PM 16 correct?

02:28PM 17 A. Correct.

02:28PM 18 Q. And you were there, correct?

02:28PM 19 A. Correct.

02:28PM 20 Q. You know, you graduated the Sheriff's Academy in 2019,

02:28PM 21 correct?

02:28PM 22 A. Correct.

02:28PM 23 Q. And that was another event we saw a picture of today

02:28PM 24 where you and Mr. Bongiovanni and I think it was Vic Sorrento

02:28PM 25 at that point in time --

02:28PM 1 A. Yes.

02:28PM 2 Q. -- you were both together, correct?

02:28PM 3 A. Correct.

02:28PM 4 Q. And you've known Vic for a long time like

02:28PM 5 Mr. Bongiovanni?

02:28PM 6 A. Yes.

02:28PM 7 Q. So that was one of those situations where you were

02:28PM 8 together, correct?

02:28PM 9 A. Correct.

02:29PM 10 Q. Now, in 2017 when you had your heart issue, you had

02:29PM 11 open-heart surgery, you had the benefit in June. But safe to

02:29PM 12 say you kind of slowed down a little physically at that point

02:29PM 13 in time, right?

02:29PM 14 A. Yeah, but I -- I did for a -- about, there was a rehab

02:29PM 15 period of like six months that --

02:29PM 16 Q. Yeah.

02:29PM 17 A. -- slowed me down.

02:29PM 18 Q. I'm sure -- I'm sure there was --

02:29PM 19 A. It was the most traumatic thing I ever went through.

02:29PM 20 Q. And so in that six months, fair to say, like, you weren't

02:29PM 21 out and about on the town all the time, right?

02:29PM 22 A. No, I was rehabbing and still -- still rehabbing,

02:29PM 23 correct. I mean, I was on medication, and trying to get my

02:29PM 24 strength back, and just get my life back to normal.

02:29PM 25 Q. And you and Mr. Bongiovanni, you'd talk from time to time

02:29PM 1 during this period?

02:29PM 2 A. Correct.

02:29PM 3 Q. Text from time to time during this period?

02:29PM 4 A. Yes, correct.

02:29PM 5 Q. But it wasn't like a situation where you guys are talking

02:29PM 6 every single day, right?

02:29PM 7 A. No, it was actually -- actually, it was, because I was

02:30PM 8 rehabbing, and he was checking on me, seeing what's going on,

02:30PM 9 how are you. So it was quite a bit.

02:30PM 10 Q. Okay. So, during the entirety of that six-month period

02:30PM 11 you guys were checking in with each other every single day?

02:30PM 12 A. I got a lot of phone calls, yes, a lot of friends and

02:30PM 13 family talking.

02:30PM 14 Q. What I'm talking about is Mr. Bongiovanni's contact?

02:30PM 15 A. And, correct. The answer is correct.

02:30PM 16 Q. Correct. So it's something that was pretty regular

02:30PM 17 during that period of time?

02:30PM 18 A. Yes.

02:30PM 19 Q. So you guys would speak on the phone, right?

02:30PM 20 A. Correct.

02:30PM 21 Q. But you wouldn't necessarily see each other out at

02:30PM 22 restaurants or bars or something along those lines?

02:30PM 23 A. Not within that six-month period, I mean, you know, no.

02:30PM 24 Q. Um-hum. So, we went through -- or, Mr. Tripi went

02:30PM 25 through a couple of the text messages, remember those earlier

02:30PM 1 this morning?

02:30PM 2 A. Yes.

02:30PM 3 Q. Those are Exhibits 208C, and 208L, and others, correct?

02:30PM 4 A. Yes.

02:30PM 5 Q. And so those text messages, when I took a look through

02:30PM 6 them, I noticed that, you know, sometimes you would talk for

02:31PM 7 a day or so, or you'd text for a day or so; do you remember

02:31PM 8 seeing that?

02:31PM 9 A. Yeah.

02:31PM 10 Q. And there would be replies back and forth, right?

02:31PM 11 A. Correct.

02:31PM 12 Q. A lot of it seemed to be text message conversations or

02:31PM 13 text notes; do you remember that?

02:31PM 14 A. At that time, yes.

02:31PM 15 Q. Yeah, so you guys would text back and forth kind of?

02:31PM 16 A. Yes.

02:31PM 17 Q. But the phone calls, it looked like, there were a few

02:31PM 18 phone calls, but it wasn't like you guys were talking on the

02:31PM 19 phone on a regular basis, right?

02:31PM 20 A. No. We were communicating though.

02:31PM 21 Q. No, I don't doubt that. We all saw the text messages.

02:31PM 22 But, you know, sometimes there would be ten day or two-week

02:31PM 23 gap between the time that you text or called each other, and

02:31PM 24 then, you know, the next text and call; do you remember

02:31PM 25 seeing that?

02:31PM 1 A. Yes.

02:31PM 2 Q. And, so, is that a fair way to characterize the way that
02:31PM 3 you guys communicated?

02:31PM 4 A. Through phone, cell phone, texting, sometimes just
02:31PM 5 stopping by your house, seeing if you're home, driving by, if
02:31PM 6 you see the car, get out and knock on the door.

02:32PM 7 Q. And sometimes there would be gaps in time when you
02:32PM 8 wouldn't speak with each other?

02:32PM 9 A. There would be, and sometimes there wouldn't be.

02:32PM 10 Q. And sometimes in life, too, when people have things going
02:32PM 11 on, he was taking care of his parents at one point in time,
02:32PM 12 right?

02:32PM 13 A. Correct.

02:32PM 14 Q. They were getting older, and he had to attend to them,
02:32PM 15 right?

02:32PM 16 A. Yes.

02:32PM 17 Q. That's something that took away some of his time to do
02:32PM 18 things that he may have wanted to do, right?

02:32PM 19 A. Yes.

02:32PM 20 Q. And to socialize, right?

02:32PM 21 A. Correct.

02:32PM 22 Q. So you may not have seen him as much in that time period,
02:32PM 23 correct.

02:32PM 24 A. I still saw him though.

02:32PM 25 Q. Oh, I don't doubt you saw him. But I guess as frequently

02:32PM 1 as you once did when his parents weren't sick?

02:32PM 2 A. Correct.

02:32PM 3 Q. Kind of similar situation when you were, you didn't see
02:32PM 4 him as frequently when you were sick, than when you were
02:32PM 5 okay, right?

02:32PM 6 A. Correct.

02:32PM 7 Q. So, one of the things that the government showed you was
02:32PM 8 Exhibit 209; do you remember that? That was the bottle of
02:32PM 9 Crown Royal.

02:32PM 10 A. Yes.

02:33PM 11 **MR. SINGER:** Ms. Champoux, will you bring up --
02:33PM 12 actually do we have the physical exhibit?

02:33PM 13 **MR. TRIPI:** It's here somewhere.

02:33PM 14 **BY MR. SINGER:**

02:33PM 15 Q. So, again, I'm going show you what's been entered into
02:33PM 16 evidence as Exhibit 209. Do you remember when Mr. Tripi
02:33PM 17 showed that to you, Mr. Selva?

02:33PM 18 A. I do.

02:33PM 19 Q. And so, what is the note that's on the front of that
02:33PM 20 bottle?

02:33PM 21 A. It says happy birthday brother. 55, no jive. Love you,
02:33PM 22 Bong.

02:33PM 23 Q. So your birthday, sir, it's October 25th?

02:33PM 24 A. October 23rd.

02:33PM 25 Q. 23rd, I'm sorry. And, so that was a gift that

02:33PM 1 Mr. Bongiovanni left for you at your house?

02:33PM 2 A. It was on my doorstep, yes.

02:33PM 3 Q. The writing that's on the bottle -- or, sorry, on the bag

02:34PM 4 that you just spoke about, do you see that?

02:34PM 5 A. I do.

02:34PM 6 Q. That seems like his handwriting, correct?

02:34PM 7 A. Correct.

02:34PM 8 Q. And you're familiar with his handwriting, right?

02:34PM 9 A. Yes.

02:34PM 10 Q. You've known him for a long time?

02:34PM 11 A. Yes.

02:34PM 12 Q. So, if he was giving that to you for an event other than

02:34PM 13 your birthday, it would kind of seem a little silly, correct?

02:34PM 14 A. Correct.

02:34PM 15 Q. So it would be a fair characterization that this was a

02:34PM 16 birthday gift to you?

02:34PM 17 A. Correct. It was just, it shocked me that it wasn't given

02:34PM 18 in person, it was just on my doorstep. So, it was different.

02:34PM 19 Q. Okay. So you're out that day?

02:34PM 20 A. I was.

02:34PM 21 Q. Okay.

02:34PM 22 A. I came home, and it was on my doorstep.

02:34PM 23 Q. What were you doing that day?

02:34PM 24 A. I don't recall.

02:34PM 25 Q. Okay. But you weren't at home?

02:34PM

1 A. No.

02:34PM

2 Q. But Mr. Bongiovanni left that on your doorstep?

02:34PM

3 A. Yes.

02:34PM

4 Q. And it was right around your birthday, right?

02:34PM

5 A. It was after my birthday, yes.

02:34PM

6 Q. And he'd given you bottles of Crown Royal like that in
7 the past for your birthday, right?

02:34PM

8 A. Correct.

02:34PM

9 Q. So this is something that was not outside the norm for
10 him to leave a bottle of alcohol on your birthday for you?

02:35PM

11 A. No. And I would give him a bottle. We would just extend
12 a gesture, correct. On his birthday.

02:35PM

13 Q. Because you'd mentioned on your direct testimony that you
14 felt like this was something that was very abrupt; do you
15 remember saying that?

02:35PM

16 A. Yes.

02:35PM

17 Q. But you just testified about how this was something that
18 you guys would do for your birthdays, right?

02:35PM

19 A. Yeah, but it was also right after the time frame that my
20 house was raided, too. So --

02:35PM

21 Q. Okay.

02:35PM

22 A. -- it was just abrupt.

02:35PM

23 Q. So it's a couple months after your house was raided,
24 right?

02:35PM

25 A. Yes.

02:35PM 1 Q. Yeah, because your house was raided in the middle part to
02:35PM 2 end part of August, right?

02:35PM 3 A. August 23rd, 2019.

02:35PM 4 Q. Okay. So this was two months after --

02:35PM 5 A. Yes.

02:35PM 6 Q. -- your house was raided?

02:35PM 7 A. Yes.

02:35PM 8 Q. So, you would agree with me, that's not very abrupt?

02:35PM 9 A. Well --

02:35PM 10 Q. Like, it didn't happen, for instance, a couple days after
02:35PM 11 your house got raided, right?

02:35PM 12 A. No. Like I mentioned, a few months after.

02:35PM 13 Q. Okay. So two months after it happened, right?

02:35PM 14 A. Correct.

02:36PM 15 Q. It happened in relation to your birthday, right?

02:36PM 16 A. This was for, yes.

02:36PM 17 Q. And that's something that you guys would do regularly,
02:36PM 18 right?

02:36PM 19 A. Yes.

02:36PM 20 Q. I'm going to take away Exhibit 209.

02:36PM 21 So I don't think there's any dispute that you and Joe
02:36PM 22 spoke on the phone, you'd see each other out several times,
02:36PM 23 but it wasn't the same as when you were single guys in your
02:36PM 24 20s, right?

02:36PM 25 A. Not as frequent, no, but we still saw each other and

02:36PM 1 spoke on the phone and text and --

02:36PM 2 Q. And I think one of the reasons why is because we
02:36PM 3 mentioned that he was married, correct?

02:36PM 4 A. Correct.

02:36PM 5 Q. And he had a child at that point in time, right?

02:36PM 6 A. Correct.

02:36PM 7 Q. You have kids, as well?

02:36PM 8 A. I have two children, and a granddaughter.

02:37PM 9 Q. He had a job, correct?

02:37PM 10 A. Correct.

02:37PM 11 Q. And, you know, we talked about some of your employment,
02:37PM 12 you talked about being a cell phone salesman; is that right?

02:37PM 13 A. Yes, I was in the wireless business, cell phone business
02:37PM 14 for a long time.

02:37PM 15 Q. You were in that for a long time, and you were also in
02:37PM 16 the collections business, right?

02:37PM 17 A. Yes.

02:37PM 18 Q. I don't think you mentioned that yesterday. There was
02:37PM 19 some type of settlement that you received at some point in
02:37PM 20 time; is that right?

02:37PM 21 A. Yes, for an injury that I had at work.

02:37PM 22 Q. And you used those settlement funds to start up a
02:37PM 23 collections agency; is that right?

02:37PM 24 A. Not all of it, part of it, to try to start a business.

02:37PM 25 Q. So part of it is seed money?

02:37PM 1 A. Sorry?

02:37PM 2 Q. I say, part of it is seed money to start up this business

02:37PM 3 in collections?

02:37PM 4 A. Part of it was, yes.

02:37PM 5 Q. I think you had a partner, Dave Hersey?

02:37PM 6 A. Yes.

02:37PM 7 Q. And he was also involved in some other things with you,

02:37PM 8 right?

02:37PM 9 A. Yes.

02:37PM 10 Q. Some of the illegal activities we talked about?

02:37PM 11 A. Yes.

02:37PM 12 Q. And so this collections business, was it successful?

02:37PM 13 A. It was not successful.

02:37PM 14 Q. Okay. It failed?

02:37PM 15 A. It failed.

02:38PM 16 Q. Okay. Did you try to resurrect it a number of times?

02:38PM 17 A. Tried for a while. Then enough was -- we stopped after

02:38PM 18 five, six months, because I kept -- it kept costing money

02:38PM 19 instead of making money, so it didn't make sense.

02:38PM 20 Q. And this is something that puts you in a little bit of

02:38PM 21 financial distress, right?

02:38PM 22 A. No.

02:38PM 23 Q. No?

02:38PM 24 A. No. I mean, I was -- I was doing okay. Just wanted to

02:38PM 25 cut my losses and just move forward.

02:38PM 1 Q. Okay. So you got back into the bartending business?

02:38PM 2 A. Yes, I was bartending and --

02:38PM 3 Q. And also the marijuana business?

02:38PM 4 A. Right. Correct.

02:38PM 5 Q. Okay. And that's what you used to support yourself?

02:38PM 6 A. Correct. And I was also in sales. I've had different

02:38PM 7 sales jobs.

02:38PM 8 Q. Okay. Fair statement that you moved around jobs a little

02:38PM 9 bit?

02:38PM 10 A. Yes.

02:38PM 11 Q. Okay. And that was actually one of the reasons why

02:38PM 12 Mr. Bongiovanni suggested that you pursue an opportunity at

02:39PM 13 the sheriff's department?

02:39PM 14 A. Yes. It was stable employment, yes.

02:39PM 15 Q. Yeah, stable employment, stable paycheck, right?

02:39PM 16 A. Yes.

02:39PM 17 Q. It's got benefits?

02:39PM 18 A. Yes.

02:39PM 19 Q. It's got a pension at the end?

02:39PM 20 A. Yes.

02:39PM 21 Q. So, you talked a little bit about your cell phone, and

02:39PM 22 the government introduced an exhibit which identified 38

02:39PM 23 different people that it felt was important to the case; do

02:39PM 24 you remember that?

02:39PM 25 A. I do.

02:39PM 1 Q. But those were not all of the contacts in your phone,
02:39PM 2 correct?

02:39PM 3 A. No, just the ones that were related to this case.

02:39PM 4 Q. Correct. So, you know, you have a lot of family and
02:39PM 5 friends; is that a fair statement?

02:39PM 6 A. I do.

02:39PM 7 Q. And you were involved in sales, right?

02:39PM 8 A. Yes.

02:39PM 9 Q. And as a salesman, you probably had a lot of contacts in
02:39PM 10 your phone related to that business, right?

02:39PM 11 A. I did, yes.

02:39PM 12 Q. As far as you're a bartender, correct?

02:39PM 13 A. Correct.

02:39PM 14 Q. And you had a lot of contacts in your phone related to
02:39PM 15 that, right?

02:39PM 16 A. No, not as much.

02:40PM 17 **MR. TRIPI:** There was a technical error, we
02:40PM 18 apologize.

02:40PM 19 **MR. SINGER:** No, that's fine.

02:40PM 20 **BY MR. SINGER:**

02:40PM 21 Q. Sorry, I lost my train of thought there. So I was asking
02:40PM 22 you about your bartending businesses, right?

02:40PM 23 A. Yes, there was always a second job on the side.

02:40PM 24 Q. Yeah, I think you mentioned Nancy Standish was one of the
02:40PM 25 people that was on the list the government showed you,

02:40PM 1 correct?

02:40PM 2 A. Yeah. Nancy's an old friend. I can't even remember why
02:40PM 3 I had her name in my contact, but yes.

02:40PM 4 Q. I think a lot of people can relate to that. So it
02:40PM 5 wouldn't surprise you to know that you had more than 600
02:40PM 6 contacts in your phone, right?

02:40PM 7 A. Correct. A lot of them were duplicate.

02:40PM 8 Q. But it wasn't just those 38 that the government showed,
02:40PM 9 right?

02:40PM 10 A. No.

02:40PM 11 Q. So, I want to talk to you a little bit about the old
02:40PM 12 neighborhood.

02:40PM 13 A. I'm sorry? Can you repeat it?

02:40PM 14 Q. I want to talk to you a little bit about the old
02:40PM 15 neighborhood. So you grew up in North Buffalo?

02:40PM 16 A. Correct.

02:40PM 17 Q. Kind of a little bit off of Hertel?

02:41PM 18 A. Correct.

02:41PM 19 Q. And you claimed that the time that you were growing up
02:41PM 20 when you're a child, growing up in that neighborhood, you
02:41PM 21 knew a guy by the name of Joe Todaro Senior; is that right?

02:41PM 22 A. Yes.

02:41PM 23 Q. And you testified that you believed that he was a made
02:41PM 24 member of Italian Organized Crime, right?

02:41PM 25 A. Allegedly, yes.

02:41PM 1 Q. And, you know, you also included his son as one of those
02:41PM 2 people who is connected to Organized Crime; is that right?

02:41PM 3 A. No, I didn't. I did not include his son.

02:41PM 4 Q. You didn't include his son?

02:41PM 5 A. No.

02:41PM 6 Q. Okay. So he was separate?

02:41PM 7 A. I don't recall mentioning his son.

02:41PM 8 Q. All right.

02:41PM 9 A. I thought it was -- are you talking about the -- maybe
02:41PM 10 I'm getting it confused. It was Joe Senior, the question was
02:41PM 11 asked for.

02:41PM 12 Q. Okay.

02:41PM 13 A. And that's the only one I was referencing. I did not
02:41PM 14 include his son.

02:41PM 15 Q. And then were some other older Italian men that you
02:41PM 16 mentioned that also lived in the neighborhood, correct?

02:41PM 17 A. Correct.

02:41PM 18 Q. And I won't go through all of the names, but one of
02:42PM 19 people you spoke about was a guy by the name of Turtle
02:42PM 20 Panepinto, right?

02:42PM 21 A. Correct.

02:42PM 22 Q. Another person you mentioned was Uncle Cheech?

02:42PM 23 A. Yes. He lived in Las Vegas. He wasn't in the
02:42PM 24 neighborhood.

02:42PM 25 Q. Yeah, but he -- he wasn't from the neighborhood, but you

02:42PM 1 mentioned him yesterday, correct?

02:42PM 2 A. Correct.

02:42PM 3 Q. And there were some other older Italian guys who lived
02:42PM 4 around Hertel Avenue at the time, right?

02:42PM 5 A. Correct.

02:42PM 6 Q. And you believed they were potentially made members of
02:42PM 7 Italian Organized Crime at that time, right?

02:42PM 8 A. Allegedly, yes.

02:42PM 9 Q. Okay. None of these people were contemporaries of yours,
02:42PM 10 right?

02:42PM 11 A. No.

02:42PM 12 Q. You were a kid, correct?

02:42PM 13 A. Correct.

02:42PM 14 Q. They were adults, correct?

02:42PM 15 A. Correct.

02:42PM 16 Q. And, so, a lot of the information about their association
02:42PM 17 with Organized Crime is something that you learned from
02:42PM 18 adults, right?

02:42PM 19 A. Correct.

02:42PM 20 Q. People kind of gossiping around the street?

02:42PM 21 A. My family, friends, yes.

02:42PM 22 Q. Um-hum.

02:42PM 23 A. It was an Italian community.

02:42PM 24 Q. You know what any of them had to do to become made
02:42PM 25 members of Italian Organized Crime?

02:43PM 1 A. Do I know personally?

02:43PM 2 Q. Yeah.

02:43PM 3 A. No, I don't.

02:43PM 4 Q. Do you know any type of qualifications they required for

02:43PM 5 admission into Organized Crime?

02:43PM 6 A. You have to be 100 percent Italian.

02:43PM 7 Q. All right. That's one criteria. Do you know of any

02:43PM 8 other criteria?

02:43PM 9 A. I don't.

02:43PM 10 Q. Did you go to any type of inductions into Italian

02:43PM 11 Organized Crime for any of these individuals you

02:43PM 12 considered --

02:43PM 13 A. No.

02:43PM 14 Q. -- to be made members?

02:43PM 15 A. That would be privileged. That would be something within

02:43PM 16 the organization. No, I never did that.

02:43PM 17 Q. Okay. So you didn't see any type of swearing-in

02:43PM 18 ceremonies or anything like that, right?

02:43PM 19 A. No. No, sir.

02:43PM 20 Q. So you really don't have any way of proving whether or

02:43PM 21 not they're connected to Organized Crime or not, right?

02:43PM 22 A. No, like I had mentioned, it's -- we're growing up, and

02:43PM 23 they're figures in the neighborhood, and it was allegedly.

02:43PM 24 You go -- as you're growing up, you're seeing different

02:43PM 25 figures, and you see these individuals, and things were said.

02:43PM 1 And if we saw them, you'd say hello, just be respectful.

02:44PM 2 So --

02:44PM 3 Q. And kind of the same is true with Mike Masecchia, right?

02:44PM 4 A. I'm sorry? No.

02:44PM 5 Q. Well, so, you claim that Mike Masecchia is a made member

02:44PM 6 of Italian Organized Crime, right?

02:44PM 7 A. He had told me.

02:44PM 8 Q. Okay. Yeah. That's something that he told you, right?

02:44PM 9 A. Right.

02:44PM 10 Q. Did you go to any type of induction ceremony for him to

02:44PM 11 become a member of Organized Crime?

02:44PM 12 A. No, I am not made. I'm not privileged to that. No.

02:44PM 13 Q. Okay. So you didn't see anything like that happen,

02:44PM 14 right?

02:44PM 15 A. No.

02:44PM 16 Q. It wasn't like he sent out invitation to a party

02:44PM 17 afterwards saying, hey, come to my party, I just got made?

02:44PM 18 A. It's not like an open type party, no.

02:44PM 19 Q. Okay. And you described Mike Masecchia as a pretty

02:44PM 20 intimidating guy, correct?

02:44PM 21 A. Correct.

02:44PM 22 Q. We saw a little bit of that this morning. You nicknamed

02:44PM 23 him Gorilla in your cell phone.

02:44PM 24 A. I didn't nickname him Gorilla, that was his nickname.

02:45PM 25 But that's what he was listed in my cell phone.

02:45PM 1 Q. And you knew that nickname, Gorilla, because he's a tough
02:45PM 2 guy, right?

02:45PM 3 A. He's a tough guy.

02:45PM 4 Q. That was part of his reputation, right?

02:45PM 5 A. Correct.

02:45PM 6 Q. And you would you agree with me that if he was a made guy

02:45PM 7 in Italian Organized Crime, that would make him tougher than

02:45PM 8 he already is, right?

02:45PM 9 A. Correct. His reputation preceded, too, as well.

02:45PM 10 Q. And so you weren't necessarily gonna challenge Mike

02:45PM 11 Masecchia when he told you, hey, I'm in Organized Crime,

02:45PM 12 correct?

02:45PM 13 A. No, it was a brief -- it's not like he was bragging about

02:45PM 14 it. I had asked him, he had mentioned it, and that was it.

02:45PM 15 It's not an ongoing topic of conversation. He answered my

02:45PM 16 question, I left it at that.

02:45PM 17 Q. Yeah. So you weren't gonna go ask him, hey, I don't

02:45PM 18 believe you, like, prove it to me. You weren't going to say

02:45PM 19 that, right?

02:45PM 20 A. That I did not, no.

02:45PM 21 Q. Okay. Because he was an intimidating guy?

02:45PM 22 A. Correct.

02:45PM 23 Q. And no one in your neighborhood said, hey, Mike

02:46PM 24 Masecchia, he's a made guy, right?

02:46PM 25 A. No, that's not true.

02:46PM

1 Q. Okay.

02:46PM

2 A. There was people thinking and alleging that he was.

02:46PM

3 Q. Okay.

02:46PM

4 A. So there's --

02:46PM

5 Q. And, again, let me break that down. People thought that
6 he may be, right?

02:46PM

7 A. What they know. What they knew.

02:46PM

8 Q. Okay.

02:46PM

9 A. Yes.

02:46PM

10 Q. And they told you about it?

02:46PM

11 A. We were close at the time, yes.

02:46PM

12 Q. Okay.

02:46PM

13 A. It's a different type of situation.

02:46PM

14 Q. Okay. But you don't really know any of this for certain,
15 right?

02:46PM

16 A. Again, it's what he had told me when I asked the
17 question, that's what me told me.

02:46PM

18 Q. And it's the same thing like when you were a kid back on
19 Hertel Avenue, right?

02:46PM

20 A. I don't understand, what do you --

02:46PM

21 Q. People told you that, hey, we think person is involved in
22 Organized Crime, correct?

02:46PM

23 A. No, this was different. It came from him. I asked him a
24 question, and he answered it. So, he had told me directly.

02:46PM

25 Q. Okay.

02:46PM 1 A. Those individuals did not. That question was never drawn

02:46PM 2 out.

02:46PM 3 Q. But I guess what I'm getting at is that you weren't at

02:46PM 4 the induction ceremony, correct?

02:47PM 5 A. Correct. I -- no, sir.

02:47PM 6 Q. And you weren't part of the organization, correct?

02:47PM 7 A. Correct.

02:47PM 8 Q. So, you really don't know one way for certain whether

02:47PM 9 he's telling the truth or not, right?

02:47PM 10 A. Again, there are a lot of --

02:47PM 11 Q. I want you to answer my question. Okay?

02:47PM 12 **MR. TRIPI:** Objection. He's answering the question.

02:47PM 13 **THE WITNESS:** I'm answering, sir.

02:47PM 14 **THE COURT:** Overruled.

02:47PM 15 **THE WITNESS:** I'm answering. It's what he had told

02:47PM 16 me.

02:47PM 17 **BY MR. SINGER:**

02:47PM 18 Q. Okay.

02:47PM 19 A. We had a private conversation. I asked him, and he gave

02:47PM 20 me a direct answer, yes.

02:47PM 21 I did not want to challenge him. I believed him. I left

02:47PM 22 it at that.

02:47PM 23 He was called the Gorilla for a reason.

02:47PM 24 Q. So with regard to Mr. Bongiovanni, you talked a little

02:47PM 25 bit about Mr. Bongiovanni's father, correct?

02:47PM 1 A. Correct.

02:47PM 2 Q. And he was somebody who grew up outside the Hertel Avenue
02:47PM 3 neighborhood, right?

02:47PM 4 A. Correct.

02:47PM 5 Q. He's an adult when you're a kid, correct?

02:47PM 6 A. Correct.

02:47PM 7 Q. And every now and then, you'd see him out and about on
02:47PM 8 Hertel Avenue hanging out with some of these older Italian
02:48PM 9 men, right?

02:48PM 10 A. Correct, the club on Hertel Avenue.

02:48PM 11 Q. In fact, he had a business, he had a clam stand on Hertel
02:48PM 12 Avenue, correct?

02:48PM 13 A. Not on Hertel, I believe it was on the West Side.

02:48PM 14 Q. On the West Side?

02:48PM 15 A. I believe.

02:48PM 16 Q. Okay.

02:48PM 17 A. I don't believe there was a clam stand on Hertel Avenue.

02:48PM 18 Q. And so he was contemporaries, not like you, with a lot of
02:48PM 19 these gentlemen who were around the neighborhood?

02:48PM 20 A. Correct. A lot of them played cards and socialized and
02:48PM 21 they were elderly, they were older than me, so I would not,
02:48PM 22 obviously, socialize in that same group. My father's age.

02:48PM 23 Q. And there's nothing kind of out of the ordinary with guys
02:48PM 24 that age hanging around together playing cards, right?

02:48PM 25 A. Again, this was at a social club on Hertel Avenue, and

02:48PM 1 everybody kind of knew what that club was.

02:48PM 2 Q. Okay. But there wasn't anything out of the ordinary with
02:48PM 3 people hanging out at that club playing cards; is that right?

02:48PM 4 A. As far as I know. I don't know what was going on behind
02:48PM 5 closed doors. I was just telling you there was a club on
02:49PM 6 Hertel, and what was alleged. People have said that it was a
02:49PM 7 known spot where elderly guys, some Organized Crime alleged
02:49PM 8 figures, would go there and hang out, play cards, whatever.

02:49PM 9 I don't know a lot about it, because I was there twice
02:49PM 10 but for totally completely different issues.

02:49PM 11 Q. Yeah, so --

02:49PM 12 A. I never played cards. Or, I'm not a card player or
02:49PM 13 gambler.

02:49PM 14 Q. Okay. So you weren't playing cards?

02:49PM 15 A. No, I never played cards there.

02:49PM 16 Q. You're only in there once or twice?

02:49PM 17 A. Yes.

02:49PM 18 Q. You were a kid at the time, right?

02:49PM 19 A. I was a kid, yes.

02:49PM 20 Q. They were adults?

02:49PM 21 A. Correct.

02:49PM 22 Q. They're not gonna let some kid in the bar, right?

02:49PM 23 A. Let me rephrase that. When I was there, I was an adult.

02:49PM 24 Q. Okay.

02:49PM 25 A. And it was a short period. It was -- I had a -- I think

02:49PM 1 I had spoke about Tom Machelli, he lived downtown street from
02:49PM 2 me. I had to go in and speak to him about a matter because
02:49PM 3 he lived -- there was a matter going on in my association, so
02:49PM 4 it was a brief matter, and I left.

02:49PM 5 Q. And then, you know, there was nobody who told you that
02:49PM 6 Mr. Bongiovanni's father was in any way associated with
02:50PM 7 Organized Crime, right?

02:50PM 8 A. No.

02:50PM 9 Q. Joe never told you that, too, right?

02:50PM 10 A. No.

02:50PM 11 Q. So, yesterday, Mr. Tripi went through a list of people
02:50PM 12 that were from the neighborhood. I want go through some of
02:50PM 13 the people that you talked about.

02:50PM 14 Before we get there, though, you talked on direct about
02:50PM 15 people who are your friend, right?

02:50PM 16 A. Correct.

02:50PM 17 Q. What's your definition of a friend?

02:50PM 18 A. It can go a couple different ways. There's a casual
02:50PM 19 friend, a casual acquaintance. Someone you speak to on a
02:50PM 20 regular basis. Someone you're close with that you see and
02:50PM 21 socialize with. Couple different categories of that.

02:50PM 22 Q. So let's talk about first you mentioned a casual friend.
02:50PM 23 What's a casual friend to you?

02:50PM 24 A. If you're out and you see somebody, say you're having
02:51PM 25 lunch or you're with your family and you, oh, I ran into

02:51PM 1 so-and-so, and you say hello to them and introduce him to
02:51PM 2 whoever you're with, I'm with my kids, whatever the situation
02:51PM 3 is, that's a casual friend.

02:51PM 4 Q. Okay. What about a casual acquaintance?

02:51PM 5 A. That would be just somebody who you don't, I mean, my --
02:51PM 6 you're asking my definition?

02:51PM 7 Q. I'm asking for your definition.

02:51PM 8 A. Casual acquaintance can be -- either be from work or from
02:51PM 9 a gym, somebody you see casually, and you just give them a
02:51PM 10 quick hello, you acknowledge, and you keep it moving.

02:51PM 11 Q. And I guess where does a friend fall in the spectrum?

02:51PM 12 A. A friend is somebody you would know and feel comfortable
02:51PM 13 calling, socializing with, doing things with, making plans
02:51PM 14 with.

02:51PM 15 Q. Yeah. So I guess you see the difference between those
02:51PM 16 three categories you just laid out, right?

02:51PM 17 A. Correct.

02:51PM 18 Q. So the friend is somebody that you're talking to and
02:51PM 19 you're seeing, correct?

02:51PM 20 A. Yes. I mean, they're all technically friends, but just
02:52PM 21 different levels of a relationship, so to speak.

02:52PM 22 Q. Yeah. And I guess when you're talking about the casual
02:52PM 23 friends or the casual acquaintances, these are people that
02:52PM 24 you know, correct?

02:52PM 25 A. Yes. You're acknowledging them, you're saying hello, and

02:52PM 1 you're a casual, and you're keeping it moving, hey, how are
02:52PM 2 you, and you're keeping it moving. Nice to see you,
02:52PM 3 something like that. You exchange a pleasantry.
02:52PM 4 Q. Yeah, so for instance, you've met the prosecutors in this
02:52PM 5 days, right?
02:52PM 6 A. Correct.
02:52PM 7 Q. You know who they are?
02:52PM 8 A. Correct.
02:52PM 9 Q. If you're walking down Delaware Avenue, and you saw one
02:52PM 10 of them on the street, you'd acknowledge who they were,
02:52PM 11 right?
02:52PM 12 A. If eye contact was made and they acknowledged me, yes.
02:52PM 13 If not, I'm gonna keep it moving.
02:52PM 14 Q. Yeah, you might wave your hand hello.
02:52PM 15 A. If the acknowledgment is made, and they give me a direct
02:52PM 16 eye contact, yes, it would be a casual wave. Hi, how are
02:52PM 17 you. And keep it moving.
02:52PM 18 Q. But they're not someone who you consider a friend, right?
02:53PM 19 A. Correct.
02:53PM 20 Q. 'Cuz you're not gonna get on the phone with them and talk
02:53PM 21 about what you did last Saturday, right?
02:53PM 22 A. No.
02:53PM 23 Q. You're not gonna talk about family, right?
02:53PM 24 A. No.
02:53PM 25 Q. So, there's a difference between people you know, and

02:53PM 1 people who are your friends, right?

02:53PM 2 A. Correct.

02:53PM 3 Q. So, throughout life, would you agree with me that who
02:53PM 4 your friends are can change?

02:53PM 5 A. Who my friends are?

02:53PM 6 Q. Yes.

02:53PM 7 A. Who my friends?

02:53PM 8 Q. Yes.

02:53PM 9 A. Yes.

02:53PM 10 Q. So, for instance, you may have been friends with someone
02:53PM 11 back in grade school at P.S. 81, right?

02:53PM 12 A. Correct.

02:53PM 13 Q. Saw him every day?

02:53PM 14 A. Yes.

02:53PM 15 Q. Talked to him on the phone?

02:53PM 16 A. Yes.

02:53PM 17 Q. Talked about things of substance?

02:53PM 18 A. Yes.

02:53PM 19 Q. But when you got to high school, you may not see them
02:53PM 20 every day or anymore, right?

02:53PM 21 A. It's a different stage. You're seeing them in school

02:53PM 22 every day. If you're involved in after-school activities
02:53PM 23 together, sports, then you're seeing them on the weekend.

02:54PM 24 And you might get together during the week depending on
02:54PM 25 what you have study-wise. Homework.

02:54PM 1 Q. You'd agree with me that someone who was your friend back
02:54PM 2 then may only fall into the casual acquaintance or casual
02:54PM 3 friend category right now?

02:54PM 4 A. Yes. I mean, yes. I mean, it was high school and now
02:54PM 5 we're in a different -- I'm in a different phase of my life,
02:54PM 6 yes.

02:54PM 7 Q. And the same thing is true of your 20s, correct?

02:54PM 8 A. Correct.

02:54PM 9 Q. Like, you may have been friends with someone in your 20s,
02:54PM 10 but in your 50s, you may only be casual acquaintances with
02:54PM 11 them, right?

02:54PM 12 A. Correct.

02:54PM 13 Q. Okay. 'Cuz things can change, life changes?

02:54PM 14 A. Life changes, it takes you in a different direction,
02:54PM 15 correct.

02:54PM 16 Q. Okay. So, one of the people that Mr. Tripi asked you
02:54PM 17 about was a guy by the name of Joe Tomasello; do you remember
02:54PM 18 him?

02:54PM 19 A. Yes.

02:54PM 20 Q. So Joe Tomasello, he wasn't the same age as you or
02:54PM 21 Mr. Bongiovanni, right?

02:54PM 22 A. He was a little bit younger.

02:54PM 23 Q. Yeah, he was a younger brother of somebody, right?

02:54PM 24 A. He came from a big family of seven. So he had five
02:55PM 25 sisters and one brother. He had a brother Angelo.

02:55PM 1 Q. And so as far as I guess your connection with him, he's
02:55PM 2 someone that you considered a friend?

02:55PM 3 A. Correct.

02:55PM 4 Q. He's someone that you would see regularly?

02:55PM 5 A. Yeah. Correct. Yes.

02:55PM 6 Q. Speak to him on the phone regularly?

02:55PM 7 A. Not all the time, but we would speak and we keep in
02:55PM 8 touch, yes.

02:55PM 9 Q. You would have substance conversations about, not just
02:55PM 10 say, hey, how the weather, but something about family members
02:55PM 11 or work or something along those lines?

02:55PM 12 A. On occasion, on occasion, yes.

02:55PM 13 Q. You talk personal details about his life sometimes?

02:55PM 14 A. If it called for that type of -- it depends what type of
02:55PM 15 conversation we're having, yes.

02:55PM 16 Q. And you also testified that he was a friend of
02:55PM 17 Mr. Bongiovanni, remember that?

02:55PM 18 A. Yes.

02:55PM 19 Q. So, Mr. Bongiovanni first met him when?

02:55PM 20 A. When we were kids. I mean, his sister used to be best
02:55PM 21 friends with Joe's sister. Tomasello's sister. So,
02:56PM 22 everybody kind of knew each other, again in the neighborhood
02:56PM 23 setting.

02:56PM 24 Q. So, when you're talking about kids, what age range are
02:56PM 25 you talking about.

02:56PM 1 A. I should have said teenagers.

02:56PM 2 Q. Okay.

02:56PM 3 A. You know, 14, 15, 16.

02:56PM 4 Q. Okay.

02:56PM 5 A. That age.

02:56PM 6 Q. But when we get to Mr. Bongiovanni's 30s, 40s, he's not

02:56PM 7 hanging around with Joe Tomasello every single day, right?

02:56PM 8 A. No, but he knew him.

02:56PM 9 Q. Yeah, I guess that's what I'm getting at, is that --

02:56PM 10 A. They're still friends.

02:56PM 11 Q. -- he knew Joe Tomasello --

02:56PM 12 A. Right.

02:56PM 13 Q. -- but he wasn't a friend of Joe Tomasello, right?

02:56PM 14 A. I would consider that a friend. Because, like I

02:56PM 15 mentioned, his sister and Joe's sister were close. They were

02:56PM 16 best friends growing up. And everybody knew each other in

02:56PM 17 the neighborhood. So yes, they were friendly enough to have

02:56PM 18 conversations, say hi, what's going on, you run into each

02:56PM 19 other, that type thing. So --

02:56PM 20 Q. You're not aware of them speaking on the phone regularly,

02:56PM 21 right?

02:56PM 22 A. I'm not aware of that, no.

02:57PM 23 Q. And you're not aware of them hanging out at bars

02:57PM 24 regularly, right?

02:57PM 25 A. I'm not aware. It could have happened.

02:57PM

1 Q. But I'm asking you what you're aware of, sir.

02:57PM

2 A. I'm not aware.

02:57PM

3 Q. You're not aware of them getting together in situations
4 where you were there, right?

02:57PM

5 A. Not that I recall.

02:57PM

6 Q. Okay. So under your definition of friends, you'd agree
7 with me that that doesn't meet the definition, right?

02:57PM

8 A. How they knew -- I'm kind of confused.

02:57PM

9 Q. Sure. So, earlier you testified that a casual friend is
10 someone you kind of see and say hello to, correct?

02:57PM

11 A. Correct. But their relationship was a little more

02:57PM

12 involved because their family was very close, his sister and

02:57PM

13 Joe's sister. So, that kind of maybe makes it a little bit

02:57PM

14 more intimate, so to speak, if somebody's friends with

02:57PM

15 somebody's sibling, so --

02:57PM

16 Q. But, I guess I go back to you didn't see them regularly
17 hanging out together, right?

02:58PM

18 A. I didn't, no.

02:58PM

19 Q. And you didn't see them regularly talking together,
20 right?

02:58PM

21 A. I didn't, no.

02:58PM

22 Q. Okay. So that's a guess that they're friends.

02:58PM

23 A. I knew they were friends.

02:58PM

24 Q. Again, I know what you -- you -- you I know what you
25 think you know. But what I'm getting at is what you

02:58PM 1 observed. And that wouldn't be friendly behavior that you
02:58PM 2 observed.

02:58PM 3 **MR. TRIPI:** Objection. The question was if they're
02:58PM 4 friends. And then the question was what you saw. That's two
02:58PM 5 questions. So the objection is compound question.

02:58PM 6 **THE COURT:** Sustained. To the extent that the
02:58PM 7 statement you're making to him is a compound question, you can
02:58PM 8 break it down.

02:58PM 9 **BY MR. SINGER:**

02:58PM 10 Q. So you classified Mr. Tomasello as a friend of
02:58PM 11 Mr. Bongiovanni, right?

02:59PM 12 A. Yes.

02:59PM 13 Q. But that does not meet the definition of a friend that
02:59PM 14 you just provided to us, right?

02:59PM 15 A. They weren't as close, but they were friends. That's --

02:59PM 16 Q. Okay.

02:59PM 17 A. They were friends. Generically speaking, they were
02:59PM 18 friends.

02:59PM 19 Q. Sal Lima was somebody else that you talked about with
02:59PM 20 Mr. Tripi yesterday, remember?

02:59PM 21 A. Correct.

02:59PM 22 Q. And Sal Lima, he wasn't from the neighborhood, right?

02:59PM 23 A. No.

02:59PM 24 Q. He's your friend, right?

02:59PM 25 A. He's my friend.

02:59PM 1 Q. But you testified that you don't believe that

02:59PM 2 Mr. Bongiovanni knows him, correct?

02:59PM 3 A. I did, correct.

02:59PM 4 Q. Okay. So he's not a friend of Mr. Bongiovanni?

02:59PM 5 A. Correct.

02:59PM 6 Q. David Hersey, you talked about him yesterday, right?

02:59PM 7 A. Yes.

02:59PM 8 Q. And your testimony was that you think that

02:59PM 9 Mr. Bongiovanni knows him because he's a North Buffalo guy,

02:59PM 10 right?

02:59PM 11 A. No, he -- he knew Dave from being around, again, when he

02:59PM 12 had moved back from Boston, and I was back in the area, I was

03:00PM 13 tending bar, Stuffed Mushroom, we were all younger, and Dave

03:00PM 14 was going Canisius College, played football there. So, yes,

03:00PM 15 we all knew each other.

03:00PM 16 Q. So in your 20s, you guys -- I'm saying that, let me break

03:00PM 17 it down. In your 20s, you and Mr. Bongiovanni and David

03:00PM 18 Hersey would be at bars together potentially?

03:00PM 19 A. We would see each other, Locker Room, I mean, it was a

03:00PM 20 different era. I'm giving you an example. The Locker Room,

03:00PM 21 the Stuffed Mushroom, maybe Mickey Rats. Whatever was going

03:00PM 22 on, yeah, because Dave is -- he's within our age group. He

03:00PM 23 grew up at the same time frame.

03:00PM 24 Q. Okay. And So that was in your 20s. But when we

03:00PM 25 transition into Mr. Bongiovanni's 30s and 40s, fair statement

03:00PM 1 that he wasn't hanging around with Dave Hersey as much as he
03:00PM 2 did in his 20s, right?

03:00PM 3 A. Correct.

03:00PM 4 Q. Wasn't talking to him on the phone regularly?

03:00PM 5 A. I don't know. I mean --

03:00PM 6 Q. You didn't hear that?

03:00PM 7 A. -- I didn't hear a conversation, I don't know.

03:01PM 8 Q. So you're not aware of him talking on the phone with him,
03:01PM 9 correct?

03:01PM 10 A. Correct.

03:01PM 11 Q. And you're not aware of him hanging out in social
03:01PM 12 situations with Dave Hersey?

03:01PM 13 A. If I was out with him, we run into him, yeah, we would
03:01PM 14 socialize.

03:01PM 15 Q. Okay. When you say run into him, like --

03:01PM 16 A. Being out. Being out. If I was out with
03:01PM 17 Mr. Bongiovanni --

03:01PM 18 Q. So you and Mr. Bongiovanni would be out --

03:01PM 19 **THE COURT:** One at a time, guys.

03:01PM 20 **THE WITNESS:** I'm sorry.

03:01PM 21 **MR. SINGER:** I'm sorry.

03:01PM 22 **THE WITNESS:** A group of people were out,
03:01PM 23 Mr. Bongiovanni, if we were out and we saw Dave, yes, we'd
03:01PM 24 acknowledge, have a drink wherever we're at, and you're -- we
03:01PM 25 knew each other, so we would speak, be friends, be friendly.

03:01PM

1 BY MR. SINGER:

03:01PM

2 Q. So it was kind of a situation where Mr. Bongiovanni and
3 you didn't make plans to hang without Dave Hersey, but if you
4 saw him, you'd say hello?

03:01PM

5 A. Correct. Yes.

03:01PM

6 Q. Okay. Sal Volpe was somebody else that you testified
7 about; do you remember that?

03:01PM

8 A. Yes.

03:01PM

9 Q. You testified that he was a friend of yours, correct?

03:01PM

10 A. He was.

03:01PM

11 Q. And you testified that you believed that Mr. Bongiovanni
12 knew him when he was alive, correct?

03:02PM

13 A. Yes.

03:02PM

14 Q. But you weren't sure?

03:02PM

15 A. Correct. Again, Sal was from the neighborhood. He was a
16 friend from the neighborhood, so, I just -- I thought, again,
17 there are a lot of different people that we knew, we knew a
18 lot of the same people, and Sal was part of that group. He
19 was part -- again, it was a heavily Italian neighborhood, and
20 I had known him, and I just assumed that he had known him.

03:02PM

21 Q. Okay. So, in the -- in Mr. Bongiovanni's 30s and 40s,
22 you didn't see him hanging out with Sal Volpe, right?

03:02PM

23 A. No.

03:02PM

24 Q. And you weren't aware of any type of phone calls that he
25 was making to Sal Volpe?

03:02PM 1 A. No.

03:02PM 2 Q. Okay. Wayne Anderson was somebody else that you
03:02PM 3 mentioned; do you remember him?

03:02PM 4 A. Yes.

03:02PM 5 Q. So you testified that Mr. Bongiovanni knows him, right?

03:02PM 6 A. Correct.

03:02PM 7 Q. And that's based on everyone growing up in the same
03:02PM 8 neighborhood?

03:02PM 9 A. Yeah. I mean, there was summer where you'd hang out with
03:03PM 10 them at the beach back in the day when we were 19, 20 years
03:03PM 11 old. Everyone would go to Canada, Bay Beach. So, yeah. Go
03:03PM 12 out to the bars. Again, it was a different time. We were
03:03PM 13 teenagers going into adults.

03:03PM 14 Q. The Suppas. You mentioned Mark, John, and Matt Suppa?

03:03PM 15 A. Yes.

03:03PM 16 Q. And you testified that you believed that Mr. Bongiovanni
03:03PM 17 knows who these people are, correct?

03:03PM 18 A. He actually -- they lived in the same house for a little
03:03PM 19 while, the double on Colvin, so --

03:03PM 20 Q. When was that when they lived together?

03:03PM 21 A. Not together, they were tenants upstairs/downstairs.

03:03PM 22 Q. Yeah.

03:03PM 23 A. I don't recall. I think -- I'm not quite sure, I don't
03:03PM 24 recall.

03:03PM 25 Q. Okay. But we're not talking within the last ten years,

03:03PM 1 right?

03:03PM 2 A. No. No, sir.

03:03PM 3 Q. Or the last 20 for that matter?

03:03PM 4 A. Right. It was a long time ago.

03:03PM 5 Q. Okay. Joe Bella was somebody that you mentioned today;

03:04PM 6 remember Joe Bella being mentioned?

03:04PM 7 A. Yes.

03:04PM 8 Q. And he was not somebody who was from the neighborhood,

03:04PM 9 right?

03:04PM 10 A. No, he was not.

03:04PM 11 Q. He was more bar guy, correct?

03:04PM 12 A. Correct.

03:04PM 13 Q. He's someone that you knew through the bars, correct?

03:04PM 14 A. Correct.

03:04PM 15 Q. And but he's not someone who was a friend of Joseph

03:04PM 16 Bongiovanni, correct?

03:04PM 17 A. I believe Joe did know him.

03:04PM 18 Q. So, you believe that Mr. Bongiovanni knew him?

03:04PM 19 A. Yes. Because I remember being out and -- believe on

03:04PM 20 Chippewa or a bar downtown, and Joe Bella was there, and we

03:04PM 21 both said hello to him.

03:04PM 22 Q. Okay.

03:04PM 23 A. So that tells me that he knew him. He acknowledged him.

03:04PM 24 Q. So he knew him.

03:04PM 25 A. Yes.

03:04PM 1 Q. But you didn't see him speaking on the phone with him all
03:04PM 2 the time, right?
03:04PM 3 A. No.
03:04PM 4 Q. Didn't see them being out at the bars together, right?
03:04PM 5 A. No.
03:04PM 6 Q. Or hanging out?
03:04PM 7 A. No.
03:04PM 8 Q. Frank Tripi was somebody else that you mentioned?
03:05PM 9 A. Yes.
03:05PM 10 Q. So, was Frank Tripi a friend of yours?
03:05PM 11 A. Yes. He was a friend of mine and Joe's. Again he was
03:05PM 12 from the neighborhood.
03:05PM 13 Q. Same age as you guys?
03:05PM 14 A. Younger.
03:05PM 15 Q. Younger?
03:05PM 16 A. Younger.
03:05PM 17 Q. How much younger?
03:05PM 18 A. A few years. I think he's 57. That range. A little bit
03:05PM 19 younger.
03:05PM 20 Q. When did you and Mr. Bongiovanni first meet Frank Tripi?
03:05PM 21 A. When we were growing up in the neighborhood.
03:05PM 22 Q. Okay. Did you hang out together when you were in your
03:05PM 23 20s?
03:05PM 24 A. Yeah, he was -- his cousin Frank Parisi and that group
03:05PM 25 were good friends with my younger brother. So if we were all

03:05PM 1 out, we would hang out, yes.

03:05PM 2 Q. But when we get to the 30s and 40s, again,

03:05PM 3 Mr. Bongiovanni is not hanging out on a regular basis with
03:05PM 4 Frank Tripi?

03:05PM 5 A. No. His life is evolving. No. But they know each
03:05PM 6 other. Again, they all knew each other from growing up like

03:05PM 7 I mentioned.

03:06PM 8 Q. And you also mentioned this morning Skip Giambrone?

03:06PM 9 A. Yes.

03:06PM 10 Q. And how old is Mr. Giambrone?

03:06PM 11 A. I believe his -- he's older than me. Maybe eight, nine
03:06PM 12 years older than me, so that would be make him 67, 68, I'm
03:06PM 13 not quite sure.

03:06PM 14 Q. So he's a little older than both you and Mr. Bongiovanni?

03:06PM 15 A. Yes.

03:06PM 16 Q. And is he someone you socialized with when you guys were
03:06PM 17 in your 20s?

03:06PM 18 A. No. No, I met Skip later in life.

03:06PM 19 Q. Okay. You didn't see Mr. Bongiovanni hanging out with
03:06PM 20 Skip Giambrone, right?

03:06PM 21 A. No.

03:06PM 22 Q. Okay. I want to talk to you a little bit about Peter
03:06PM 23 Gerace. You testified that Mr. Bongiovanni knew Peter
03:06PM 24 Gerace, correct?

03:06PM 25 A. Correct.

03:06PM 1 Q. And you also testified that Mr. Bongiovanni knew his
03:06PM 2 brother, Anthony Gerace, right?

03:06PM 3 A. Correct.

03:07PM 4 Q. So just to review, so Peter is the older brother in that
03:07PM 5 situation?

03:07PM 6 A. Peter's older, yes.

03:07PM 7 Q. And Anthony is a younger brother?

03:07PM 8 A. Yes.

03:07PM 9 Q. And he's a couple years younger than Peter, correct?

03:07PM 10 A. Yes. I don't know his age, but he's younger.

03:07PM 11 Q. Okay. And Peter and Anthony, they did not grow up in
03:07PM 12 North Buffalo, right?

03:07PM 13 A. No.

03:07PM 14 Q. I think they're out from Amherst; is that right?

03:07PM 15 A. I believe so.

03:07PM 16 Q. Okay. So they're not from the neighborhood that you grew
03:07PM 17 up in?

03:07PM 18 A. No.

03:07PM 19 Q. And they're not from the neighborhood that
03:07PM 20 Mr. Bongiovanni grew up in?

03:07PM 21 A. No.

03:07PM 22 Q. You testified that you saw Mr. Bongiovanni and Peter
03:07PM 23 Gerace bar tend together at the Ramada hotel bar.

03:07PM 24 A. The Bubble, correct.

03:07PM 25 Q. The Bubble. And that was 30 years ago, right?

03:07PM 1 A. Correct.

03:07PM 2 Q. That was during your guys' college days?

03:07PM 3 A. Yes, it was a different time, yes.

03:07PM 4 Q. Okay. And you're aware that Peter Gerace only worked at
03:07PM 5 that bar for a couple weeks, correct?

03:07PM 6 A. I was not aware of that. I thought it was a little

03:08PM 7 while. But that -- I believe that's -- they might have met
03:08PM 8 before that, but they knew each other, and they became fast
03:08PM 9 good friends.

03:08PM 10 Q. Okay. How many times were you at the Ramada when
03:08PM 11 Mr. Bongiovanni and Mr. Gerace were working together?

03:08PM 12 A. A few.

03:08PM 13 Q. How many times?

03:08PM 14 A. Two.

03:08PM 15 Q. Two? How spread apart were those times?

03:08PM 16 A. A weekend, that's, probably Friday to Friday, or Saturday
03:08PM 17 to Saturday.

03:08PM 18 Q. So over the course of the weekend, you witnessed the two
03:08PM 19 of them working at the bar?

03:08PM 20 A. Yes.

03:08PM 21 Q. But that was the only time you witnessed them working?

03:08PM 22 A. That's correct, together there.

03:08PM 23 Q. So you really can't say how long they worked together at
03:08PM 24 the Ramada, correct?

03:08PM 25 A. Correct.

03:08PM 1 Q. Now you testified that you and Mr. Bongiovanni went to
03:08PM 2 Pharaoh's Gentlemen's Club?

03:08PM 3 A. Correct.

03:08PM 4 Q. And that was during the 2013 to 2014 time period,
03:08PM 5 correct?

03:08PM 6 A. Correct.

03:08PM 7 Q. And you testified yesterday that you were there a few
03:08PM 8 times, correct?

03:08PM 9 A. Correct.

03:09PM 10 Q. I think Mr. Tripi had to refresh your memory about that,
03:09PM 11 right?

03:09PM 12 A. He did.

03:09PM 13 Q. How many times were you there together with
03:09PM 14 Mr. Bongiovanni?

03:09PM 15 A. Two.

03:09PM 16 Q. Two times?

03:09PM 17 A. Two times.

03:09PM 18 Q. Okay. So it wasn't five or six times, you're talking
03:09PM 19 about two times?

03:09PM 20 A. Two times.

03:09PM 21 Q. Okay. And one time you were there, you recall that it
03:09PM 22 was you and Mr. Bongiovanni, but Peter Gerace wasn't at the
03:09PM 23 club?

03:09PM 24 A. Correct.

03:09PM 25 Q. And in the second time, you testified that that time

03:09PM 1 Peter Gerace was at the club?

03:09PM 2 A. He was.

03:09PM 3 Q. And that Mr. Bongiovanni and he had a conversation,

03:09PM 4 correct?

03:09PM 5 A. Yeah. He said hello. He was closer with Joe than I was.

03:09PM 6 And they talked, and then they stepped away and had a brief

03:09PM 7 conversation, and then they came back.

03:09PM 8 Q. Okay. You testified on direct that Peter Gerace told you

03:09PM 9 that Mr. Bongiovanni helped him with a probation violation?

03:10PM 10 A. Not that he told me.

03:10PM 11 Q. Okay. So who told you about that?

03:10PM 12 A. I had heard. Joe had told me. Joe had told me that he

03:10PM 13 had helped Peter with a probation violation.

03:10PM 14 Did you -- I'm sorry, can you rephrase the question? I

03:10PM 15 think I misunderstood.

03:10PM 16 Q. What do you recall about learning something about Peter

03:10PM 17 Gerace having a probation violation?

03:10PM 18 A. Joe had mentioned it to me.

03:10PM 19 Q. So Joe had mentioned something to you about a probation

03:10PM 20 violation?

03:10PM 21 A. Yes.

03:10PM 22 Q. And you believe that in some way, Mr. Bongiovanni stepped

03:10PM 23 in to help him?

03:10PM 24 A. Yes.

03:10PM 25 Q. Did Peter Gerace tell you that he was violated as a

03:10PM 1 result of his violation?

03:10PM 2 A. He was vie -- I heard that he was violated. And he had
03:10PM 3 just got out of doing four months in prison, and something
03:10PM 4 had happened, and they wanted to put him back into prison.
03:10PM 5 And he stepped in to get him, I believe he wore an ankle
03:10PM 6 bracelet instead of going back to jail.

03:10PM 7 **MR. TRIPI:** Just to be clear, the "he." Who is
03:11PM 8 speaking? My objection is to the confusion.

03:11PM 9 **THE WITNESS:** I apologize.

03:11PM 10 **THE COURT:** Let's let Mr. Singer control the
03:11PM 11 examination, and you can do that on redirect if you want,
03:11PM 12 Mr. Tripi.

03:11PM 13 **MR. TRIPI:** Understood, Judge.

03:11PM 14 **THE COURT:** Next question.

03:11PM 15 **BY MR. SINGER:**

03:11PM 16 Q. So, regarding Anthony Gerace, it was your testimony
03:11PM 17 yesterday that there was a time that Mr. Bongiovanni told you
03:11PM 18 that he helped Anthony Gerace?

03:11PM 19 A. Yes.

03:11PM 20 Q. And this was in regard to some type of arrest that
03:11PM 21 happened in the Town of Amherst?

03:11PM 22 A. Correct.

03:11PM 23 Q. And you testified that Anthony Gerace was caught with a
03:11PM 24 few ounces of cocaine?

03:11PM 25 A. Correct.

03:11PM 1 Q. And you testified that Peter Gerace called to ask
03:11PM 2 Mr. Bongiovanni for help, right?

03:11PM 3 A. That's correct.

03:11PM 4 Q. And you testified that Mr. Bongiovanni called Amherst
03:11PM 5 police, and the case went away?

03:11PM 6 A. He made a -- he had a contact there, and he reached out.

03:12PM 7 Q. When did this occur?

03:12PM 8 A. I don't -- I don't recall the time frame. It was maybe
03:12PM 9 early 2000s, right around there.

03:12PM 10 Q. How did you find out about this again?

03:12PM 11 A. I had heard, I had heard Anthony got arrested, and then I
03:12PM 12 asked Joe, and he reiterated and told me.

03:12PM 13 Q. And you're sure about that?

03:12PM 14 A. I'm sure.

03:12PM 15 Q. You talked a little bit about the wedding yesterday.
03:12PM 16 More particularly, the suits for the wedding, right?

03:12PM 17 A. Yes.

03:12PM 18 Q. So, you claimed on direct examination that
03:12PM 19 Mr. Bongiovanni purchased you a \$600 suit, right?

03:12PM 20 A. Correct.

03:12PM 21 Q. Do you remember saying that?

03:12PM 22 A. Yes.

03:12PM 23 Q. And he purchased that at Napoli's, correct?

03:12PM 24 A. Correct.

03:12PM 25 Q. Now, is the store owned by Thomas Napoli, correct?

03:12PM 1 A. His family, Thomas's family.

03:12PM 2 Q. Yeah. And so Thomas Napoli at that point in time, he was

03:12PM 3 Mr. Bongiovanni's brother-in-law, correct?

03:12PM 4 A. Correct.

03:12PM 5 Q. And he was a co-owner of the store, correct?

03:12PM 6 A. I believe it's his father and his uncle. I don't know

03:13PM 7 the relationship. The arrangement they have, if he has

03:13PM 8 ownership, I don't know that.

03:13PM 9 Q. But it was a family business?

03:13PM 10 A. It's a family business.

03:13PM 11 Q. And, so, you said on direct that Mr. Bongiovanni

03:13PM 12 purchased suits for you, correct?

03:13PM 13 A. Correct.

03:13PM 14 Q. For Tom Napoli, correct?

03:13PM 15 A. The wedding party, correct.

03:13PM 16 Q. Okay. For Matty, who was Mr. Bongiovanni's stepson?

03:13PM 17 A. Yes.

03:13PM 18 Q. And also for himself, correct?

03:13PM 19 A. Correct.

03:13PM 20 Q. And there were four different suits, correct?

03:13PM 21 A. Correct.

03:13PM 22 Q. So --

03:13PM 23 A. I could have been -- it's -- Tom Napoli might not have

03:13PM 24 been part of that purchase because his family owned it.

03:13PM 25 Q. Yeah, I guess that's what I'm getting at.

03:13PM 1 A. It was the three of us. It was myself, Joe, and his
03:13PM 2 stepson.

03:13PM 3 Q. Like, you would agree with me, Tom Napoli, his family
03:13PM 4 owns the store.

03:13PM 5 A. Yes.

03:13PM 6 Q. And, you know, he's gonna do the best he can for his
03:13PM 7 brother-in-law, right?

03:13PM 8 A. Correct.

03:13PM 9 Q. And so he's probably not gonna charge his brother-in-law
03:14PM 10 the cost of a suit from his own store, right?

03:14PM 11 A. I assumed that suit was higher, I assumed it was \$1,200,
03:14PM 12 because it was a very nice suit.

03:14PM 13 Q. Okay. There's nothing illegal about a family member who
03:14PM 14 owns a business offering a break another family member,
03:14PM 15 right?

03:14PM 16 A. No. That's why I mentioned \$600. Not at all.

03:14PM 17 Q. Do you recall that Mr. Bongiovanni paid by credit card,
03:14PM 18 correct?

03:14PM 19 A. I believe so, yes.

03:14PM 20 Q. And the total bill you recall was \$600, right?

03:14PM 21 A. For mine, yes.

03:14PM 22 Q. Okay. Just for yours?

03:14PM 23 A. Yes, because I was with him, and it was a fitting. So --
03:14PM 24 and I picked it up.

03:14PM 25 Q. Okay. So you saw \$600 charged for just your suit?

03:14PM 1 A. Yes. He had cashed it out, and I had taken it. So, yes.

03:14PM 2 Q. Did you see a copy of the receipt?

03:14PM 3 A. No. I knew what it had cost. I knew it had been

03:14PM 4 discounted, and it had been discounted down to \$600. The

03:14PM 5 retail associate that helped us had mentioned it. He said

03:14PM 6 the amount.

03:14PM 7 Q. But you told us yesterday that you didn't purchase the

03:15PM 8 suit yourself, right?

03:15PM 9 A. I didn't, no.

03:15PM 10 Q. You didn't use your credit card to buy the suit?

03:15PM 11 A. I did not, no.

03:15PM 12 Q. You have no idea what type of arrangements

03:15PM 13 Mr. Bongiovanni made with Napoli's, right?

03:15PM 14 A. I don't.

03:15PM 15 Q. Okay. So it's 100 percent possible that when he paid, he

03:15PM 16 was paying for everybody, right?

03:15PM 17 A. Not \$600. I mean, I thought was the cost of just -- at

03:15PM 18 that time, it was just my transaction for the suit. So I

03:15PM 19 don't know if anything else was included in that.

03:15PM 20 Q. But you don't know, because you never paid, right?

03:15PM 21 A. I did not pay, no.

03:15PM 22 Q. So you're speculating that the \$600 that you think he

03:15PM 23 paid was just for your suit?

03:15PM 24 A. Correct.

03:15PM 25 Q. So you talked a little bit about today, about

03:15PM 1 improvements that Mr. Bongiovanni made to his house; do you
03:15PM 2 remember that?

03:15PM 3 A. Yes.

03:15PM 4 Q. And you also talked about purchase of a car, correct?

03:15PM 5 A. Correct.

03:15PM 6 Q. So, let's start off with this car. So this car was a
03:15PM 7 classic car, Buick?

03:15PM 8 A. Correct.

03:16PM 9 Q. And it was something that he purchased, your
03:16PM 10 understanding, from an older gentleman?

03:16PM 11 A. Correct, I believe in Batavia.

03:16PM 12 Q. When Joseph Bongiovanni purchased this vehicle, were you
03:16PM 13 present?

03:16PM 14 A. I was not, no.

03:16PM 15 Q. So you don't know how he paid for it, correct?

03:16PM 16 A. Correct.

03:16PM 17 Q. And when he first purchased the car and brought it back
03:16PM 18 to his home, did you see it?

03:16PM 19 A. Within a week, yes.

03:16PM 20 Q. Okay.

03:16PM 21 A. Pretty short time frame.

03:16PM 22 Q. So within a week period of time, you saw it?

03:16PM 23 A. Yes.

03:16PM 24 Q. And you think that there were some renovations done to
03:16PM 25 the car?

03:16PM 1 A. Not right away. Over a period of time, yes. Pointed out
03:16PM 2 what he wanted to do to it, and then the work was being done.

03:16PM 3 Q. Okay. So there's improvements that were made to the car?

03:16PM 4 A. Yes.

03:16PM 5 Q. Do you know how much those improvements cost?

03:16PM 6 A. I don't. There was a paint job, bumper, interior. I
03:16PM 7 don't know what those costs.

03:16PM 8 Q. Do you know that for certain?

03:17PM 9 A. I believe it also may be -- there been -- I might have --
03:17PM 10 I do, because he told me.

03:17PM 11 Q. Okay. Did he talk to you about how he paid for these
03:17PM 12 things?

03:17PM 13 A. No.

03:17PM 14 Q. And you don't know how he paid for these things, right?

03:17PM 15 A. I don't.

03:17PM 16 Q. You don't know how he paid for the car?

03:17PM 17 A. I was not present for that, no.

03:17PM 18 Q. You don't know how he paid for the improvements of the
03:17PM 19 vehicle?

03:17PM 20 A. I was not present for that, either, no.

03:17PM 21 Q. Okay. How about the home renovations? So inside
03:17PM 22 the home. I think you testified on direct that the house was
03:17PM 23 painted?

03:17PM 24 A. The interior, what I was shown, yes.

03:17PM 25 Q. Okay. That there was furniture that was purchased for

03:17PM 1 the house?

03:17PM 2 A. Correct.

03:17PM 3 Q. That there was a kitchen island that was added to the
03:17PM 4 house?

03:17PM 5 A. Correct.

03:17PM 6 Q. And the pictures that you were shown, they were from
03:17PM 7 2019, right?

03:17PM 8 A. I don't remember the date.

03:17PM 9 Q. If I told you that those pictures were taken during the
03:17PM 10 search warrant that was executed on his house, you wouldn't
03:18PM 11 have any reason to disagree with me on that, right?

03:18PM 12 A. No.

03:18PM 13 Q. And you testified earlier Mr. Bongiovanni and his wife
03:18PM 14 Lindsay, they purchased this house in Tonawanda in 2012?

03:18PM 15 A. That time frame, yes.

03:18PM 16 Q. So 2012 to 2019, that's a period of seven years, correct?

03:18PM 17 A. Yes. I don't know the exact time frame. Yes. It might
03:18PM 18 have been 2011, 2012, '13.

03:18PM 19 Q. But we're talking about a long period of time between
03:18PM 20 when the pictures were taken at the house that you were shown
03:18PM 21 versus when they purchased the house, correct?

03:18PM 22 A. Correct.

03:18PM 23 Q. And these improvements that were done as far as the
03:18PM 24 furniture and the paint and the island, those were things
03:18PM 25 that happened over time, right?

03:18PM 1 A. I believe so, yes.

03:18PM 2 Q. Well, you'd been over to his house, right?

03:18PM 3 A. Yes.

03:18PM 4 Q. And the day they moved in, you didn't see all this new

03:18PM 5 furniture and paint all over the house, right?

03:18PM 6 A. No, but there was work that was gonna be done when they

03:18PM 7 first moved in that was planning to get done.

03:18PM 8 Q. And the work that was being done there, do you know if

03:19PM 9 they were hiring a contractor to do this work?

03:19PM 10 A. It was just cosmetics, doing the floor, painting. That

03:19PM 11 type of thing.

03:19PM 12 Q. The kind of thing?

03:19PM 13 A. And putting the middle island in.

03:19PM 14 Q. And so the sort of thing that homeowners do, right?

03:19PM 15 A. Yeah. The -- I guess the major one was putting a middle

03:19PM 16 island in. I'm not a contractor, I don't know what's

03:19PM 17 involved with that.

03:19PM 18 Q. So you don't know how that middle island got added, right?

03:19PM 19 A. I don't. I know it was added.

03:19PM 20 Q. Okay.

03:19PM 21 A. I wasn't there, so --

03:19PM 22 Q. But you don't know if there was a custom kitchen designer

03:19PM 23 who came in and put the island in?

03:19PM 24 A. I don't.

03:19PM 25 Q. Or you don't know if the Bongiovannis just bought it off

03:19PM 1 the shelf, right?

03:19PM 2 A. I don't.

03:19PM 3 Q. Couldn't tell?

03:19PM 4 A. I don't know.

03:19PM 5 Q. And you don't know how they paid for any of these things,

03:19PM 6 right?

03:19PM 7 A. I don't.

03:19PM 8 Q. And you don't know whether they performed the work

03:19PM 9 themselves, right?

03:19PM 10 A. I don't know. I assumed that they hired a contractor.

03:19PM 11 Q. Okay. But you don't know, that's just an assumption?

03:19PM 12 A. Well, it was the middle island, that was new, so that

03:19PM 13 took some craftsmanship. And I don't believe Joe knew how to

03:20PM 14 do that.

03:20PM 15 Q. So it's something they could have purchased, right?

03:20PM 16 A. It could have been, yes. But then you'd have to have it

03:20PM 17 installed and make it sound to the foundation. I don't know

03:20PM 18 how to do that, like I said, I'm not a contractor.

03:20PM 19 Q. And you're a homeowner yourself, right?

03:20PM 20 A. Yes.

03:20PM 21 Q. You've painted your own walls, right?

03:20PM 22 A. Yes, just painted a room, yes.

03:20PM 23 Q. Done basic home improvements to your own house, right?

03:20PM 24 A. Yes.

03:20PM 25 Q. That's something that homeowners do, right?

03:20PM

1 **MR. TRIPI:** Objection as to what homeowners do.

03:20PM

2 **THE COURT:** Overruled.

03:20PM

3 **BY MR. SINGER:**

03:20PM

4 Q. As far as the outside of the house, so you talked a
5 little bit about things and improvements that are done to the
6 outside of the house; do you remember that?

03:20PM

7 A. Yes.

03:20PM

8 Q. So you were shown a picture of a house as it existed back
9 in 2012, right?

03:20PM

10 A. I believe that was the time frame, yes.

03:20PM

11 Q. And then you were shown another picture of the house as
12 it existed in 2022, correct?

03:20PM

13 A. Yes.

03:21PM

14 Q. Okay. So that's a period of about ten years, right?

03:21PM

15 A. Correct.

03:21PM

16 Q. So you mentioned that there were upgrades that you
17 noticed on the exterior of the house, that included the new
18 garage door?

03:21PM

19 A. Yes.

03:21PM

20 Q. That included the new front door?

03:21PM

21 A. Yes.

03:21PM

22 Q. And that included some landscaping changes?

03:21PM

23 A. Correct.

03:21PM

24 Q. You're referring, when you're talking about the
25 landscaping, to the bushes that were in the front?

03:21PM 1 A. Bushes, the lawn, new shrubs.

03:21PM 2 Q. Yeah. And so you don't have any idea how Mr. Bongiovanni

03:21PM 3 and Mrs. Bongiovanni paid for those things, right?

03:21PM 4 A. I don't.

03:21PM 5 Q. And you don't have any idea of when those improvements

03:21PM 6 were made, correct?

03:21PM 7 A. I don't.

03:21PM 8 Q. And you don't have any idea whether they were made

03:21PM 9 sequentially, right?

03:21PM 10 A. I'm not sure, I don't know.

03:21PM 11 Q. And you don't have any idea about whether or not those

03:21PM 12 improvements were completed by themselves?

03:21PM 13 A. No, they were -- they were completed by Mike Sinatra.

03:21PM 14 Q. Okay.

03:21PM 15 A. The landscaper.

03:21PM 16 Q. And you don't know how much Mr. Sinatra may have charged

03:22PM 17 Mr. and Mrs. Bongiovanni for that?

03:22PM 18 A. I don't. And also the garage door was done by a

03:22PM 19 contractor, too.

03:22PM 20 Q. Okay. Do you know that for a fact?

03:22PM 21 A. Yeah, he had mentioned --

03:22PM 22 Q. Really? How do you know that?

03:22PM 23 A. Joe told me he had to hire a contractor to put in the new

03:22PM 24 door. It's a big job.

03:22PM 25 Q. Have you ever had to replace your garage door, sir?

03:22PM 1 A. I did. And I hired a contractor.

03:22PM 2 Q. Okay. And you know that's not \$10,000 to go --

03:22PM 3 **MR. TRIPI:** Objection.

03:22PM 4 **THE WITNESS:** I didn't say a figure, I know it's
03:22PM 5 expensive.

03:22PM 6 **THE COURT:** Hang on.

03:22PM 7 **MR. TRIPI:** He said you know it's not 10,000. Lacks
03:22PM 8 foundation.

03:22PM 9 **THE COURT:** No, overruled.

03:22PM 10 **BY MR. SINGER:**

03:22PM 11 Q. So you know it's not \$10,000 to replace a garage door,
03:22PM 12 right?

03:22PM 13 A. Yes.

03:22PM 14 Q. Okay. And you know it's not million of dollars to go
03:22PM 15 replace shrubs, right?

03:22PM 16 A. Correct.

03:22PM 17 Q. And this is -- you know this because you're a homeowner,
03:22PM 18 right?

03:22PM 19 A. Correct.

03:22PM 20 Q. Okay. So you talked a little bit about Mr. Bongiovanni's
03:23PM 21 use of cocaine, remember that?

03:23PM 22 A. Yes.

03:23PM 23 Q. So, it's a fair statement that you did not tell law
03:23PM 24 enforcement about Mr. Bongiovanni's purported use of cocaine
03:23PM 25 at first, correct?

03:23PM 1 A. I'm sorry, can you repeat that?

03:23PM 2 Q. You did not tell law enforcement about Mr. Bongiovanni's

03:23PM 3 purported use of cocaine right at first, correct?

03:23PM 4 A. No, it came out through interviews.

03:23PM 5 Q. Okay. So it came out over time?

03:23PM 6 A. As I interviewed with them, yes.

03:23PM 7 Q. Okay. So, for instance, like, you remember on the date

03:23PM 8 of the search warrant at your house, you don't remember

03:23PM 9 telling them, telling law enforcement, anything about

03:23PM 10 Mr. Bongiovanni using cocaine?

03:23PM 11 A. Not on that date, no.

03:23PM 12 Q. Okay. And you had a proffer meeting a couple days after

03:23PM 13 that on the 26th of August, 2019; do you remember that?

03:23PM 14 A. Correct.

03:23PM 15 Q. And you didn't tell law enforcement about

03:23PM 16 Mr. Bongiovanni's purported use of cocaine at that meeting

03:24PM 17 either?

03:24PM 18 A. I don't believe so, no. It did not come up at that

03:24PM 19 point.

03:24PM 20 Q. The second proffer meeting that you had, which is

03:24PM 21 September 11th of 2019, that's when you first talk about

03:24PM 22 Mr. Bongiovanni using cocaine, correct?

03:24PM 23 A. Correct.

03:24PM 24 Q. And at that proffer meeting, you talked about him using

03:24PM 25 cocaine on five different occasions throughout the last ten

03:24PM 1 years; do you remember talking about that?

03:24PM 2 A. Yes.

03:24PM 3 Q. And you talked about how you observed Mr. Bongiovanni use
03:24PM 4 cocaine approximately one time a year; do you remember saying
03:24PM 5 that?

03:24PM 6 A. Correct. When we were out, yes.

03:24PM 7 Q. Yeah. And you remember talking about how he'd do that at
03:24PM 8 big parties, quote, unquote?

03:24PM 9 A. That's where it transpired, yes.

03:24PM 10 Q. Okay. And you talked about how he used cocaine at his
03:24PM 11 wedding in Cabo San Lucas, right?

03:24PM 12 A. Yes.

03:24PM 13 Q. Okay. But those were the times that you talked about
03:24PM 14 with the government at that point in time, correct?

03:24PM 15 A. Correct.

03:25PM 16 Q. Okay. And you remember talking and testifying before the
03:25PM 17 grand jury on October 3rd of 2019, right?

03:25PM 18 A. Yes.

03:25PM 19 Q. And you remember talking about the cocaine use that we
03:25PM 20 just discussed, right?

03:25PM 21 A. Correct.

03:25PM 22 Q. But you also remember talking about different other times
03:25PM 23 than what you talked about in your second proffer, correct?

03:25PM 24 A. Correct.

03:25PM 25 Q. So, for example, you talked about how you remember

03:25PM 1 Mr. Bongiovanni using cocaine after he met Lindsay in 2009,
03:25PM 2 right?
03:25PM 3 A. Yes.
03:25PM 4 Q. And you remember talking about how Mr. Bongiovanni used
03:25PM 5 cocaine with you at Mother's?
03:25PM 6 A. Correct.
03:25PM 7 Q. And you remember talking about how he used it when you
03:25PM 8 guys were at Mickey Rats and at Tom Doctor's cottage?
03:25PM 9 A. Correct.
03:25PM 10 Q. And so that was a new revelation that didn't come to
03:25PM 11 light at your second proffer meeting, correct?
03:25PM 12 A. Correct. We had -- we were at the cottage, and then we
03:26PM 13 went down to the bar. It took place at the bar.
03:26PM 14 Q. Okay.
03:26PM 15 A. We were at the cottage for a minute, and then we all went
03:26PM 16 down to the bar, and people went into the bathroom and did
03:26PM 17 get a bump, a blast, which is a blast of cocaine.
03:26PM 18 Q. Okay. So, yesterday, you went a little further, right?
03:26PM 19 A. Yes.
03:26PM 20 Q. So, you started talking about cocaine usage, not during
03:26PM 21 that time period of ten years or so, roughly, before your
03:26PM 22 arrest, but you're talking about other times, right?
03:26PM 23 A. Correct.
03:26PM 24 Q. So, you added to that that you observed Mr. Bongiovanni
03:26PM 25 use cocaine dating back before 2009, right?

03:26PM 1 A. Yes.

03:26PM 2 Q. Going back to the early 2000s, right?

03:26PM 3 A. Yes.

03:26PM 4 Q. Going back to even times before he joined the DEA?

03:26PM 5 A. Yes.

03:26PM 6 Q. And those were all new things, right?

03:26PM 7 A. New things to -- to what? To the -- what are you

03:27PM 8 referencing again? I'm sorry.

03:27PM 9 Q. So, again, the first time you talked to law enforcement

03:27PM 10 is back in 2019?

03:27PM 11 A. Yes, okay. I'm sorry, yes, they were new things, yes.

03:27PM 12 Q. So, you'd agree with me that these things kept trickling

03:27PM 13 out more and more as time progressed, right?

03:27PM 14 A. Yes, as questions were asked, yes, more came out.

03:27PM 15 Q. And you'd agree with me that in these situations, a lot

03:27PM 16 of them that you talked about, you were the person in

03:27PM 17 possession of the cocaine, right?

03:27PM 18 A. Correct.

03:27PM 19 Q. And you were the person who purchased the cocaine,

03:27PM 20 correct?

03:27PM 21 A. Correct.

03:27PM 22 Q. And you were the person who was providing the cocaine,

03:27PM 23 correct?

03:27PM 24 A. Yes.

03:27PM 25 Q. And that's because you're a user of cocaine, right?

03:27PM

1 A. I was.

03:27PM

2 Q. And, so, these things that come to light, you have some
3 inconsistencies with what you told the government, right?

03:27PM

4 **MR. TRIPI:** Objection.

03:27PM

5 **THE COURT:** Hang on.

03:27PM

6 **MR. TRIPI:** Form.

03:27PM

7 **THE COURT:** Go ahead. Yes.

03:27PM

8 **MR. TRIPI:** He --

03:27PM

9 **THE COURT:** The objection is sustained.

03:27PM

10 **MR. SINGER:** I'll switch up the question, Judge.

03:28PM

11 **BY MR. SINGER:**

03:28PM

12 Q. So you told us just right now, and yesterday, about

03:28PM

13 Mr. Bongiovanni purportedly using cocaine at Mother's, right?

03:28PM

14 A. Yes.

03:28PM

15 Q. But you told law enforcement something different about

03:28PM

16 never using at Mother's in the past, correct?

03:28PM

17 A. I don't recall that.

03:28PM

18 Q. Okay. Well, let me help you refresh your recollection on

03:28PM

19 that. I'm going to hand you a copy of what's been marked as

03:28PM

20 Government Exhibit 3540I. I'm going to direct your attention

03:28PM

21 to page 6 of that exhibit. It's the middle part of the page,

03:28PM

22 where that blue underlining is. Can you please take a look

03:28PM

23 at that, sir, and when you're done look up at me?

03:29PM

24 A. Okay.

03:29PM

25 Q. I'm going to take that away from you now.

03:29PM 1 Does that help refresh your recollection as to what you
03:29PM 2 told law enforcement regarding not using at Mother's?

03:29PM 3 A. I had used at Mother's. I had -- when you were
03:29PM 4 referencing this, I was the one that used at Mother's. I got
03:29PM 5 it, and I used it.

03:29PM 6 Q. Okay. So Mr. Bongiovanni didn't use cocaine at Mother's?

03:29PM 7 A. Not at Mother's, I was the one who used it.

03:29PM 8 Q. Okay. So you were the one that used at Mother's?

03:29PM 9 A. Yes.

03:29PM 10 Q. Mr. Bongiovanni was not?

03:29PM 11 A. No. With that incident, I had used it, he did not use
03:29PM 12 it.

03:29PM 13 Q. Okay.

03:29PM 14 A. For that incident there.

03:29PM 15 **THE COURT:** Mr. Singer, is this a good time to take
03:29PM 16 our afternoon break?

03:29PM 17 **MR. SINGER:** Yeah, Judge.

03:29PM 18 **THE COURT:** We don't have to, if you want to keep
03:29PM 19 going a little bit.

03:29PM 20 **MR. SINGER:** As I said before, I don't want to hold
03:29PM 21 up any breaks, so this is fine.

03:29PM 22 **THE COURT:** Let's take our afternoon break, folks.

03:30PM 23 Remember my instructions, about not talking about the case
03:30PM 24 with anyone, including each other, and not making up your
03:30PM 25 mind. Be back here in ten or 15 minutes. Thanks.

03:30PM 1 (Jury excused at 3:30 p.m.)

03:30PM 2 **THE COURT:** Okay. You can step out, Mr. Selva,

03:30PM 3 please.

03:30PM 4 (Witness excused at 3:30 p.m.)

03:30PM 5 **THE COURT:** Anything we need to put on the record

03:31PM 6 from the government?

03:31PM 7 **MR. TRIPI:** No, Your Honor.

03:31PM 8 **THE COURT:** From the defense?

03:31PM 9 **MR. SINGER:** No, Your Honor.

03:31PM 10 **THE COURT:** Mr. Singer, are you going to finish

03:31PM 11 today, you think?

03:31PM 12 **MR. SINGER:** Yeah, no, I don't anticipate going over

03:31PM 13 the time.

03:31PM 14 **THE COURT:** Okay. Good. Great. Thank you.

03:31PM 15 **MR. TRIPI:** Thank you, Your Honor.

03:31PM 16 **THE CLERK:** All rise.

03:31PM 17 (Off the record at 3:31 p.m.)

03:47PM 18 (Back on the record at 3:47 p.m.)

03:47PM 19 (Jury not present.)

03:47PM 20 **THE CLERK:** All rise.

03:47PM 21 **THE COURT:** Please be seated.

03:48PM 22 **THE CLERK:** We are back on the record for the

03:48PM 23 continuation of the jury trial in case number 19-cr-227,

03:48PM 24 United States of America versus Joseph Bongiovanni.

03:48PM 25 All counsel and parties are present.

03:48PM 1 **THE COURT:** Anything we need to do before we resume?

03:48PM 2 **MR. SINGER:** No.

03:48PM 3 **MR. TRIPI:** No.

03:48PM 4 **THE COURT:** Let's bring them back, please.

03:49PM 5 (Jury and witness seated at 3:49 p.m.)

03:49PM 6 **THE COURT:** The record will reflect that all our

03:49PM 7 jurors are again in the courtroom.

03:49PM 8 I remind the witness that he's still under oath.

03:49PM 9 And, Mr. Singer, you may continue.

03:49PM 10 **BY MR. SINGER:**

03:49PM 11 Q. Thank you. So, Mr. Selva, we last talked about the

03:49PM 12 allegations of drug abuse, and so I want to move on to the

03:49PM 13 stag party for Mr. Bongiovanni. So, you testified on direct

03:49PM 14 that you were one of the people who helped organize it,

03:49PM 15 right?

03:49PM 16 A. Correct.

03:50PM 17 Q. And there were tickets that were sold to the event,

03:50PM 18 correct?

03:50PM 19 A. Yes.

03:50PM 20 Q. And that was to help fund the event?

03:50PM 21 A. Fund the event, and whatever proceeds were left usually

03:50PM 22 went to the groom.

03:50PM 23 Q. Yeah. So just kind of like a, hey, you're getting

03:50PM 24 married gift kind of thing?

03:50PM 25 A. Correct.

03:50PM 1 Q. And so selling the tickets, that was something that you
03:50PM 2 didn't control exclusively, right?

03:50PM 3 A. No.

03:50PM 4 Q. So you were one of the people who sold the tickets for
03:50PM 5 the stag, right?

03:50PM 6 A. Yes.

03:50PM 7 Q. But there were also other people who sold ticket for the
03:50PM 8 stag?

03:50PM 9 A. Yes.

03:50PM 10 Q. So for instance, there were people at Joe's work at the
03:50PM 11 DEA who sold tickets, right?

03:50PM 12 A. I'm not aware of that, I don't know.

03:50PM 13 Q. Are you aware of any DEA agents from Joe's office who
03:50PM 14 attended the stag?

03:50PM 15 A. I'm not aware of that, no.

03:50PM 16 Q. You're not aware of any of those people?

03:50PM 17 A. No.

03:50PM 18 Q. All right. And then when you were selling your tickets,
03:50PM 19 you were selling tickets to people who you know, right?

03:50PM 20 A. Correct.

03:50PM 21 Q. They were friends of yours, right?

03:50PM 22 A. Correct. And they knew Joe.

03:50PM 23 Q. And they knew Joe, too, correct?

03:50PM 24 A. Yes.

03:50PM 25 Q. But Joe wasn't really having input on who attended the

03:51PM 1 event, correct?

03:51PM 2 A. No.

03:51PM 3 Q. Okay. So, as far as the Ron Serio drug-trafficking
03:51PM 4 organization, we'll move on to that.

03:51PM 5 One thing that you've been consistent with, I think from
03:51PM 6 the very beginning, is that Mr. Bongiovanni never met Ron
03:51PM 7 Serio, right?

03:51PM 8 A. No.

03:51PM 9 Q. And never spoke to Ron Serio, right?

03:51PM 10 A. As far as I know, no.

03:51PM 11 Q. Okay. So, going back to the beginning of this, your
03:51PM 12 knowledge before you got involved in this was that Ron Serio
03:51PM 13 and Mike Masecchia started to get together somewhere in the
03:51PM 14 2000s, correct?

03:51PM 15 A. Correct.

03:51PM 16 Q. And that Mike Masecchia had some type of grow operation
03:51PM 17 in Ellicottville, Franklinville area of New York, right?

03:51PM 18 A. Correct.

03:51PM 19 Q. And that Mike Masecchia at that beginning point in time
03:51PM 20 was supplying Ron Serio with marijuana, correct?

03:51PM 21 A. Not supplying, he was cashing him out.

03:51PM 22 Q. Cashing him out?

03:52PM 23 A. Yes. He would -- whatever he would take from a grow, he
03:52PM 24 would cash it out with Ron --

03:52PM 25 Q. Okay.

03:52PM 1 A. -- in the beginning.

03:52PM 2 Q. Okay. So, kind of in a purchase situation?

03:52PM 3 A. For Ron.

03:52PM 4 Q. Okay. I got you. And so this relationship started to

03:52PM 5 grow over time as you testified yesterday, right?

03:52PM 6 A. Correct.

03:52PM 7 Q. And eventually, you get involved in the Ron Serio

03:52PM 8 organization, correct?

03:52PM 9 A. Yes.

03:52PM 10 Q. And you had roles like you were delivering plants for

03:52PM 11 marijuana, correct?

03:52PM 12 A. I worked mostly with Masecchia.

03:52PM 13 Q. Okay.

03:52PM 14 A. Mike Masecchia.

03:52PM 15 Q. You testified yesterday you were talking about making

03:52PM 16 deliveries in cars, right?

03:52PM 17 A. Yes. Well, when it was harvested, we would move it back

03:52PM 18 from the country into the city.

03:52PM 19 Q. Correct, because you had to sell it, right?

03:52PM 20 A. We brought it to Ron. Yes, we brought it to Ron,

03:52PM 21 correct.

03:52PM 22 Q. Okay. So you're driving marijuana in your car, right?

03:52PM 23 A. Correct.

03:52PM 24 Q. You're also taking care of plants, correct?

03:52PM 25 A. Correct.

03:53PM 1 Q. That was both before they were planted in the ground at
03:53PM 2 the grow site in Franklinville, correct?

03:53PM 3 A. Correct.

03:53PM 4 Q. And it was also after, correct?

03:53PM 5 A. Correct.

03:53PM 6 Q. And so there was also times where you testified that you
03:53PM 7 grew marijuana in your basement?

03:53PM 8 A. Correct.

03:53PM 9 Q. And you also stored and processed marijuana in your
03:53PM 10 basement, right?

03:53PM 11 A. Not stored -- well, whatever was taken, yes. Whatever
03:53PM 12 was taken from the -- the crop was in my basement at times.

03:53PM 13 Q. So you take the crop back to your house, right?

03:53PM 14 A. If it was in my house, yes.

03:53PM 15 Q. Okay.

03:53PM 16 A. If it was in the country, no.

03:53PM 17 Q. Okay. So, the marijuana that you're growing in your
03:53PM 18 house, when you dry it out to process it, correct?

03:53PM 19 A. Correct.

03:53PM 20 Q. You process it down in your basement, correct?

03:53PM 21 A. Correct.

03:53PM 22 Q. And after you broke it down, you moved it out of there,
03:53PM 23 correct?

03:53PM 24 A. Then it would be out of there, correct.

03:53PM 25 Q. And you also claimed that one of your reasons for getting

03:53PM 1 involved here was also to provide information to Ron Serio,
03:54PM 2 correct?

03:54PM 3 A. Correct.

03:54PM 4 Q. And it was protection information that was provided by
03:54PM 5 Mr. Bongiovanni, correct?

03:54PM 6 A. Correct.

03:54PM 7 Q. But it's also fair to say, sir, that you haven't been

03:54PM 8 consistent with the government about your role in this -- in
03:54PM 9 this operation, right?

03:54PM 10 A. That's correct.

03:54PM 11 Q. So, like, for instance, your statements have changed over
03:54PM 12 time on a couple different things, right?

03:54PM 13 A. The beginning, yes.

03:54PM 14 Q. Okay. So, for instance, how you found out about Ron
03:54PM 15 Serio and Mike Masecchia being involved in the marijuana
03:54PM 16 business, that's changed over time, right?

03:54PM 17 A. What, what, I don't understand, what do you mean changed
03:54PM 18 like how?

03:54PM 19 Q. Sure. So you remember meeting in your initial proffer
03:54PM 20 interview with the government, correct?

03:54PM 21 A. Correct.

03:54PM 22 Q. And you remember talking about how to get into the Ron
03:54PM 23 Serio-Mike Masecchia organization, you first had a
03:54PM 24 conversation with Joe Tomasello, correct?

03:54PM 25 A. Correct.

03:54PM 1 Q. And he was someone that you understood was involved in
03:54PM 2 the operation in some capacity?

03:54PM 3 A. Correct.

03:54PM 4 Q. And that after talking with Mr. Tomasello, you talked to
03:55PM 5 another individual, Larry Falzone, correct?

03:55PM 6 A. I, yes, I spoke to Larry, yes.

03:55PM 7 Q. And then after that conversation with first Tomasello and
03:55PM 8 then second Falzone, you called Mike Masecchia about getting
03:55PM 9 involved, correct?

03:55PM 10 A. Correct.

03:55PM 11 Q. And you told the government in that first meeting that
03:55PM 12 you got involved in the Ron Serio organization in 2012 or
03:55PM 13 2013, right?

03:55PM 14 A. Correct.

03:55PM 15 Q. Okay. But that changed in the second proffer interview
03:55PM 16 you met with the government, right?

03:55PM 17 A. Correct.

03:55PM 18 Q. So roughly a month later, you talk about the Mike
03:55PM 19 Masecchia connection, right?

03:55PM 20 A. Correct.

03:55PM 21 Q. And you start to talk about how it wasn't 2012 or 2013,
03:55PM 22 but more like be 2010, 2011 when you first got involved,
03:55PM 23 right?

03:55PM 24 A. 2008, actually.

03:55PM 25 Q. You don't remember talking about 2010 or 2011?

03:55PM 1 A. I do. But you asked when I first got involved, it was --

03:55PM 2 Q. I was asking you what you said to the government in your

03:55PM 3 second proffer interview. Okay?

03:56PM 4 A. Yes.

03:56PM 5 Q. Okay. So, let's confine it to that second proffer

03:56PM 6 interview. You remember tell them not 2008 in that second

03:56PM 7 interview, correct?

03:56PM 8 A. That's correct.

03:56PM 9 Q. You told them 2010 and 2011, correct?

03:56PM 10 A. Correct.

03:56PM 11 Q. So it creped backwards, correct, in your second

03:56PM 12 interview?

03:56PM 13 A. Yes.

03:56PM 14 Q. And then in the grand jury, you walk in in October,

03:56PM 15 roughly another month later, and that's when you start

03:56PM 16 talking about 2008, correct?

03:56PM 17 A. Correct.

03:56PM 18 Q. And you talk about Joe Tomasello, correct?

03:56PM 19 A. Correct.

03:56PM 20 Q. But the conversation with Larry Falzone is not mentioned

03:56PM 21 in the grand jury, correct?

03:56PM 22 A. I don't -- I don't recall.

03:56PM 23 Q. Okay. Would taking a look at your grand jury testimony

03:56PM 24 refresh your recollection?

03:56PM 25 A. Yes.

03:56PM 1 **MR. SINGER:** Ms. Champoux, would you mind bringing up
03:56PM 2 Exhibit 3540N on Mr. Selva's screen.

03:56PM 3 **THE COURT:** Just for the witness?

03:56PM 4 **MR. TRIPI:** For the witness?

03:56PM 5 **MR. SINGER:** Just the witness, yes. And to page 34,
03:57PM 6 please.

03:57PM 7 **BY MR. SINGER:**

03:57PM 8 Q. I'm going to direct your attention, sir, to line 16 on
03:57PM 9 that page.

03:57PM 10 A. Okay.

03:57PM 11 **MR. SINGER:** And then, Ms. Champoux, can you advance
03:57PM 12 to page 35 please? Thank you.

03:57PM 13 **THE WITNESS:** Okay.

03:57PM 14 **MR. SINGER:** And 36.

03:57PM 15 **BY MR. SINGER:**

03:58PM 16 Q. Once you get to line 12, sir, I think it's all done at
03:58PM 17 that point.

03:58PM 18 A. Okay.

03:58PM 19 **MR. SINGER:** You can take that down, Ms. Champoux,
03:58PM 20 thank you.

03:58PM 21 **BY MR. SINGER:**

03:58PM 22 Q. And so you'd agree with me that Joe Tomasello came up in
03:58PM 23 the grand jury testimony, correct?

03:58PM 24 A. Joe Tomasello did.

03:58PM 25 Q. Yeah, so Larry Falzone didn't come up in the grand jury

03:58PM 1 testimony, correct?

03:58PM 2 A. No.

03:58PM 3 Q. Okay. And then, so, as far as the start of your
03:58PM 4 involvement in the conspiracy, you talked yesterday and today
03:58PM 5 about it being 2008 was the starting point, correct?

03:58PM 6 A. Correct.

03:58PM 7 Q. But you've also told the authorities different times,
03:59PM 8 correct?

03:59PM 9 A. Correct.

03:59PM 10 Q. So, we went over, you know, some of them just a second
03:59PM 11 ago, but you remember when you first talked to law
03:59PM 12 enforcement was the day that your house got raided, correct?

03:59PM 13 A. Correct.

03:59PM 14 Q. And you remember talking to them about the grow operation
03:59PM 15 they witnessed down in your basement?

03:59PM 16 A. Yes.

03:59PM 17 Q. And you remember talking to them about when it was that
03:59PM 18 you got involved in growing marijuana in your basement,
03:59PM 19 correct?

03:59PM 20 A. Correct.

03:59PM 21 Q. And that time period was -- was not going back to 2008,
03:59PM 22 correct?

03:59PM 23 A. Not at that time, no.

03:59PM 24 Q. Yeah, you told them something to the effect of somewhere
03:59PM 25 between six and seven years ago, or five years ago?

03:59PM 1 A. Correct.

03:59PM 2 Q. Okay. And then in your first proffer meeting that you
03:59PM 3 had after the search warrant was executed at your house, that
03:59PM 4 changed, right?

03:59PM 5 A. Correct.

03:59PM 6 Q. You remember talking to the government and talking to
03:59PM 7 them about five years as being your entry into the
03:59PM 8 conspiracy, correct?

03:59PM 9 A. Correct. Each time I was telling a little bit more. I
03:59PM 10 was torn. It was very -- it was very hard.

04:00PM 11 Q. Okay. So, then you kind of fast forward to your grand
04:00PM 12 jury testimony, and again it's 2008, right?

04:00PM 13 A. Correct.

04:00PM 14 Q. All right. And so as far as the grow equipment in your
04:00PM 15 basement, that's something that's also changed, correct?

04:00PM 16 A. Changed how?

04:00PM 17 Q. Well, so, the first time that the authorities talk to you
04:00PM 18 about it like we just discussed was at the time the search
04:00PM 19 warrant was executed at your house, right?

04:00PM 20 A. Yes. It was taken.

04:00PM 21 Q. Correct. And you talked to them about how it was about
04:00PM 22 five years ago that you started growing marijuana at your
04:00PM 23 house?

04:00PM 24 A. I -- I don't recall --

04:00PM 25 Q. You don't recall?

04:00PM

1 A. -- that.

04:00PM

2 Q. Let me try to refresh your recollection, sir.

04:00PM

3 A. Thank you.

04:00PM

4 Q. Going to direct your attention to Government

04:00PM

5 Exhibit 3540G as in golf.

04:00PM

6 **MR. TRIPI:** Thank you.

04:00PM

7 **BY MR. SINGER:**

04:00PM

8 Q. I'll direct your attention to the bottom paragraph on the

04:00PM

9 first page, flowing into the top paragraph on the next page.

04:01PM

10 Take a look at that sir and look up at me when you're done.

04:01PM

11 A. Okay.

04:01PM

12 Q. So I'm going to take that away from you.

04:01PM

13 Does that refresh your recollection as to what you recall

04:01PM

14 talking to the police about the first time you spoke to them

04:01PM

15 about this?

04:01PM

16 A. Yes.

04:01PM

17 Q. And, so, you'd agree with me, it wasn't five years?

04:01PM

18 A. Correct, it was more.

04:01PM

19 Q. Yeah. You were talking about six and seven years, right?

04:01PM

20 A. Correct. Each time I gave up a little, I became more

04:01PM

21 truthful and with them.

04:01PM

22 Q. Okay. So, as far as the incident regarding

04:02PM

23 Mr. Bongiovanni allegedly smelling marijuana in your

04:02PM

24 basement, you weren't consistent about when that happened

04:02PM

25 either, right?

04:02PM 1 A. No, it was the time that he stopped over and there was
04:02PM 2 plants in the basement, and he noticed the smell.

04:02PM 3 Q. And you recall talking to the government about that in
04:02PM 4 your first proffer meeting, correct?

04:02PM 5 A. I believe so, yes.

04:02PM 6 Q. And when you talked to him in your first proffer meeting,
04:02PM 7 you talked to them about how it was in 2016 that

04:02PM 8 Mr. Bongiovanni came into your house and smelled the
04:02PM 9 marijuana, correct?

04:02PM 10 A. He's been to my house many times.

04:02PM 11 Q. Well, what I'm asking, sir, is whether in that first
04:02PM 12 proffer interview you remember telling the government 2016

04:02PM 13 was the date where Mr. Bongiovanni walked into your house and
04:02PM 14 smelled the marijuana grow in your basement?

04:02PM 15 A. I don't recall. I mean, I'd need something to refresh my
04:02PM 16 memory on that. I don't remember the time frame.

04:02PM 17 Q. Sure. So I'm going to direct your attention to

04:03PM 18 Government Exhibit 3540H as in hotel, to page 5. And to the

04:03PM 19 top bullet in that. Take a look at that, and look up at me
04:03PM 20 when you're done.

04:03PM 21 A. Okay.

04:03PM 22 Q. So, Mr. Selva, does that refresh your recollection as to
04:03PM 23 what you told the government in your first proffer interview?

04:03PM 24 A. Yes.

04:03PM 25 Q. And you told them 2016 correct, sir?

04:03PM 1 A. Correct.

04:03PM 2 Q. But that changed in your second proffer interview,
04:03PM 3 correct?

04:03PM 4 A. Correct.

04:03PM 5 Q. In that second proffer interview, you told the government
04:03PM 6 that it was in 2013 that this occurred, correct?

04:03PM 7 A. Correct. Each time, I came forward with a little bit
04:03PM 8 more information as we discussed it.

04:03PM 9 Q. So it continues to trickle out, correct?

04:03PM 10 A. Correct.

04:03PM 11 Q. More and more facts, correct?

04:04PM 12 A. Correct.

04:04PM 13 Q. As you continue to talk with the government, correct?

04:04PM 14 A. Correct.

04:04PM 15 Q. And your attorney's there, correct?

04:04PM 16 A. Correct.

04:04PM 17 Q. So, the information that Mr. Bongiovanni purportedly gave
04:04PM 18 you, and the negotiations about his payments, so you
04:04PM 19 testified that these negotiations started up, according to
04:04PM 20 your testimony yesterday, in 2008; do you remember that?

04:04PM 21 A. Yes.

04:04PM 22 Q. Do you remember talking about how you initially met
04:04PM 23 Mr. Bongiovanni out at M.T. Pocket's bar on Hertel?

04:04PM 24 A. Correct.

04:04PM 25 Q. And you made this proposal to him about providing

04:04PM 1 information, correct?

04:04PM 2 A. Correct.

04:04PM 3 Q. And he got upset about that, correct?

04:04PM 4 A. Correct.

04:04PM 5 Q. In fact, he rejected the proposal, correct?

04:04PM 6 A. Correct.

04:04PM 7 Q. And then you say that after that unsuccessful attempt to

04:04PM 8 solicit him, you then met with Ron Serio and Mike Masecchia,

04:04PM 9 correct?

04:04PM 10 A. Correct.

04:04PM 11 Q. And you met them up at M.T. Pocket's, correct?

04:04PM 12 A. No. Not at M.T. Pocket's. It was -- I believe it was a

04:04PM 13 different place. I met with Mike first. I usually met with

04:05PM 14 Mike. So I -- I met with Mike. I believe he came over my

04:05PM 15 house.

04:05PM 16 Q. So you don't recall yesterday testifying to the jury that

04:05PM 17 you met up with Ron Serio and Mike Masecchia at

04:05PM 18 M.T. Pocket's?

04:05PM 19 A. Not -- not initially, but I had met up with them at

04:05PM 20 M.T. Pocket's, but the first -- the first meeting regarding

04:05PM 21 this was at my house, Mike had stopped by.

04:05PM 22 Q. So it was at your house, it wasn't as a bar at all?

04:05PM 23 A. Then another time, I met them out. I mean, there's --

04:05PM 24 I'm kind of confused what --

04:05PM 25 Q. Okay. So -- so -- so you then testified yesterday that

04:05PM 1 you also met Mr. Bongiovanni for a second time at Gables bar
04:05PM 2 on Hertel; do you remember that?

04:05PM 3 A. Correct.

04:05PM 4 Q. And you talked about proposing \$2,000 to him, correct?

04:05PM 5 A. Correct.

04:05PM 6 Q. And you're stating in your testimony yesterday that he

04:05PM 7 agreed to that figure, correct --

04:05PM 8 A. Correct.

04:05PM 9 Q. -- to provide protection?

04:05PM 10 A. Correct.

04:05PM 11 Q. And so you testified that for three years this

04:05PM 12 arrangement remained, correct?

04:06PM 13 A. That's correct.

04:06PM 14 Q. The \$2,000 a month figure?

04:06PM 15 A. Correct.

04:06PM 16 Q. But then later, after three years, it changed, correct?

04:06PM 17 A. Correct.

04:06PM 18 Q. It was increased from \$2,000 to \$4,000, correct?

04:06PM 19 A. Correct.

04:06PM 20 Q. And you testified yesterday that you consummated the

04:06PM 21 \$4,000 a month transaction at Mother's bar, or some type of

04:06PM 22 Chippewa bar, correct?

04:06PM 23 A. Correct.

04:06PM 24 Q. And then that remained in place until 2017, correct?

04:06PM 25 A. Correct.

04:06PM 1 Q. So, you'd agree with me that when initially the police
04:06PM 2 raided your house at the end of August in 2019, you never
04:06PM 3 told them anything about this, correct?

04:06PM 4 A. Initially, no.

04:06PM 5 Q. And then at your first proffer interview, there was
04:06PM 6 nothing that you talked about as far as you talked about Ron
04:06PM 7 Serio, and you talk about Mike Maseccchia asking you to find
04:06PM 8 out if Mr. Bongiovanni was willing to talk and see if
04:06PM 9 Mr. Serio was under investigation, correct?

04:06PM 10 A. Correct.

04:06PM 11 Q. And you know this proposal for paying information -- for
04:07PM 12 paying for information, the bribes, right, do you remember
04:07PM 13 talking to the government about how that occurred at Mother's
04:07PM 14 bar?

04:07PM 15 A. I do.

04:07PM 16 Q. Okay. But that was different than what you testified to
04:07PM 17 yesterday about the initial conversation, correct?

04:07PM 18 A. I don't recall. Can I have something to refresh my
04:07PM 19 memory? I'm not --

04:07PM 20 Q. Well, I'm asking you about your testimony, sir, okay?

04:07PM 21 A. Okay.

04:07PM 22 Q. So do you remember talking to the jury yesterday about
04:07PM 23 this starting up, and having a conversation
04:07PM 24 Mr. Bongiovanni --

04:07PM 25 A. Yes.

04:07PM 1 Q. -- at a bar on Hertel?

04:07PM 2 A. Yes.

04:07PM 3 Q. Okay. And then do you remember talking to the government
04:07PM 4 when you first started raising this back in August of 2019
04:07PM 5 about having this meeting at Mother's?

04:07PM 6 **MR. TRIPI:** Objection as to date/time, I think we
04:07PM 7 need to be a little more specific.

04:07PM 8 **THE COURT:** Overruled. You can -- you can -- it was
04:07PM 9 specific enough for me. But if the witness understands it, he
04:07PM 10 can answer it. If he doesn't, he can tell you.

04:08PM 11 **THE WITNESS:** The meeting at Mother's? Yes, we did
04:08PM 12 meet at Mother's.

04:08PM 13 **BY MR. SINGER:**

04:08PM 14 Q. Okay. And that's different than a Hertel bar, you'd
04:08PM 15 agree with me on that?

04:08PM 16 A. We met at Hertel, and we also met at Mother's. I mean,
04:08PM 17 like I mentioned, there were bars and locations that we met
04:08PM 18 at.

04:08PM 19 **THE COURT:** So maybe he doesn't -- didn't understand
04:08PM 20 it the way I did, Mr. Singer. Re-ask.

04:08PM 21 **MR. SINGER:** It's okay, Judge.

04:08PM 22 **BY MR. SINGER:**

04:08PM 23 Q. So as far as the meeting with Ron Serio and Mike
04:08PM 24 Masecchia, so, you'd agree with me that you said in your
04:08PM 25 testimony yesterday that you met up with Ron Serio and you

04:08PM 1 met up with Mike Masecchia to talk about Bongiovanni's
04:08PM 2 initial rejection of this at M.T. Pocket's, correct?

04:08PM 3 A. Correct.

04:08PM 4 Q. But do you remember when you talked with the government
04:08PM 5 in your first proffer interview that you talked about meeting
04:08PM 6 up with Ron Serio and Mike Masecchia at the Western Door
04:08PM 7 restaurant?

04:08PM 8 A. We had dinner there, yes.

04:08PM 9 Q. Okay. So, you would agree with me that the Western Door
04:08PM 10 restaurant is different than M.T. Pocket's, right?

04:08PM 11 A. Correct. But that was a different meeting. It was -- we
04:08PM 12 met there, but we met at M.T. Pocket's, we met at different
04:08PM 13 bars usually to talk about what we had to talk about.

04:09PM 14 Q. Okay.

04:09PM 15 A. The Western Door was just dinner and just conversation.

04:09PM 16 Q. Just dinner and conversation. So you don't recall
04:09PM 17 telling the government about how the meeting at Western Door
04:09PM 18 was talking about the \$4,000 month figure?

04:09PM 19 A. Yes, it was. That's what I meant by conversation
04:09PM 20 regarding what we had going on.

04:09PM 21 Q. Okay. So, as far as your second proffer meeting, do you
04:09PM 22 remember not really giving a specific date as to when
04:09PM 23 Mr. Bongiovanni purportedly agreed to this \$4,000 a month
04:09PM 24 bribe?

04:09PM 25 A. I remember that, yes.

04:09PM 1 Q. Okay. And as far as the third proffer meeting, things
04:09PM 2 changed a little in that, as well, right?

04:09PM 3 A. Correct.

04:09PM 4 Q. So in the third proffer meeting, you start to talk about
04:09PM 5 how \$2,000 was the initial proposal, right?

04:09PM 6 A. Correct.

04:09PM 7 Q. And then that was rejected, correct?

04:09PM 8 A. Correct.

04:09PM 9 Q. But then \$4,000 was proposed, correct?

04:09PM 10 A. Correct.

04:09PM 11 Q. And that was accepted, correct?

04:09PM 12 A. Correct.

04:09PM 13 Q. And then later in your grand jury testimony, you talk
04:09PM 14 about a structured transaction, correct?

04:09PM 15 A. Correct.

04:10PM 16 Q. That's very similar to the testimony you provided to the
04:10PM 17 jury yesterday, today, correct?

04:10PM 18 A. Yes.

04:10PM 19 Q. Where you talked about how it wasn't that \$4,000 was from
04:10PM 20 the beginning, correct?

04:10PM 21 A. Correct.

04:10PM 22 Q. It was, it started out at \$2,000, correct?

04:10PM 23 A. Correct.

04:10PM 24 Q. And then it was increased to \$4,000 over time?

04:10PM 25 A. Correct.

04:10PM 1 Q. So you'd agree with me that this is all changing over the
04:10PM 2 course of time you're talking with the government, right?

04:10PM 3 A. It's changing. The operation is changing, too. Correct.

04:10PM 4 Q. Well, I know that's what you talked to us about. But
04:10PM 5 what I'm talking about is what you told the government
04:10PM 6 initially.

04:10PM 7 A. Yes.

04:10PM 8 Q. You would agree with me that you changed your story with
04:10PM 9 the government as time progressed?

04:10PM 10 A. Changed it as it progressed, I told them more how the
04:10PM 11 operation advanced. So --

04:10PM 12 Q. And your attorney were at part of these meetings, right?

04:10PM 13 A. Yes.

04:10PM 14 Q. You hired an attorney, 'cuz you realized that you're
04:10PM 15 facing federal charges, right?

04:10PM 16 A. Correct.

04:10PM 17 Q. You just can't grow marijuana in this capacity and expect
04:10PM 18 nothing to happen, right?

04:10PM 19 A. No.

04:10PM 20 Q. And Mr. Zaccagnino was someone you trusted, right?

04:11PM 21 A. Yes.

04:11PM 22 Q. He's someone who's helped you out in the past?

04:11PM 23 A. No, not before.

04:11PM 24 Q. He's helped out friends of yours in the past, right?

04:11PM 25 A. Yes.

04:11PM

1 **MR. TRIPI:** Objection, relevance.

04:11PM

2 **THE COURT:** Overruled. Cross-examination, overruled.

04:11PM

3 **BY MR. SINGER:**

04:11PM

4 Q. And you respected him, correct?

04:11PM

5 A. Correct.

04:11PM

6 Q. You trusted his advice, correct?

04:11PM

7 A. Yes.

04:11PM

8 Q. And he talked to you about some of the penalties you

04:11PM

9 might be facing in this case, right?

04:11PM

10 A. Yes.

04:11PM

11 Q. He talked to you about how you were involved in a

04:11PM

12 marijuana conspiracy, correct?

04:11PM

13 A. Yes.

04:11PM

14 Q. And he talked to you about how there's a potential for a

04:11PM

15 five-year mandatory minimum attached to that?

04:11PM

16 A. Correct.

04:11PM

17 Q. Or potentially more, if even more marijuana can be

04:11PM

18 brought into the equation, correct?

04:11PM

19 A. Correct.

04:11PM

20 Q. He talked to you about the firearms?

04:11PM

21 **MR. TRIPI:** Objection, privileged. Attorney-client

04:11PM

22 privilege.

04:11PM

23 **MR. SINGER:** Your Honor, this goes to the motive to

04:11PM

24 fabricate. And it's 100 percent relevant.

04:11PM

25 **THE COURT:** Why don't we come up?

04:11PM 1 (Sidebar discussion held on the record.)

04:12PM 2 **MR. TRIPI:** Judge, my objection is privilege.

04:12PM 3 There's a proper way to ask what he's facing without asking
04:12PM 4 about the conversations with the attorney. So he can simply
04:12PM 5 ask weren't you facing X, correct? Weren't you facing Y,
04:12PM 6 correct? Weren't you facing Z, correct? Without delving into
04:12PM 7 discussions he had with his attorney.

04:12PM 8 So I'm not going to object if it's framed the right
04:12PM 9 way, but I don't want him to delve into conversations that are
04:12PM 10 attorney-client privileged.

04:12PM 11 **MR. SINGER:** Judge, the conversations, number one,
04:12PM 12 the government doesn't have to the ability to assert a
04:12PM 13 privilege -- sorry.

04:12PM 14 **THE COURT:** You're right. The government doesn't
04:12PM 15 have the ability. And I'm concerned about the witness
04:12PM 16 waiving. I'm concerned about the witness waiving privilege.
04:12PM 17 He doesn't know any better. And you're asking him these
04:12PM 18 questions about conversations with his lawyer, I'm a little
04:13PM 19 troubled by that.

04:13PM 20 **MR. TRIPI:** I think you can get to the same
04:13PM 21 information, Rob, without asking him about conversations with
04:13PM 22 his lawyer, that's all I'm saying.

04:13PM 23 **MR. SINGER:** I'll just ask it the way --

04:13PM 24 **THE COURT:** You can ask the way Mr. Tripi is
04:13PM 25 suggesting, and can say and your lawyer was present with you

04:13PM 1 at these meetings and these things were discussed, you can do
04:13PM 2 that, right?

04:13PM 3 (End of sidebar discussion.)

04:13PM 4 **THE COURT:** Go ahead.

04:13PM 5 **BY MR. SINGER:**

04:13PM 6 Q. Thank you. So, Mr. Selva, you also knew that there were
04:13PM 7 firearms that were located inside your house during the
04:13PM 8 search, right?

04:13PM 9 A. Correct.

04:13PM 10 Q. You mentioned them today, one of them was a Mossburg
04:13PM 11 shotgun, right?

04:13PM 12 A. Yes, sir.

04:13PM 13 Q. And one of them was a .22 caliber rifle?

04:13PM 14 A. Yes, sir.

04:13PM 15 Q. And there was marijuana that was also located in your
04:13PM 16 house during that search, correct?

04:13PM 17 A. Correct.

04:13PM 18 Q. And so you understood that possession of a firearm, when
04:13PM 19 you're involved in a narcotics conspiracy, is a problem for
04:13PM 20 you, correct?

04:13PM 21 A. Correct.

04:13PM 22 Q. Because that exposes you to additional liability,
04:13PM 23 correct?

04:14PM 24 A. Correct.

04:14PM 25 Q. So the federal law for possession of a firearm in

04:14PM 1 furtherance of drug trafficking carries a five-year mandatory
04:14PM 2 minimum consecutive penalty, correct?

04:14PM 3 A. Correct.

04:14PM 4 Q. And that would run on top of whatever sentence you got
04:14PM 5 for the marijuana part of this conspiracy, right?

04:14PM 6 A. Correct.

04:14PM 7 Q. So that was something that concerned you as well, right?

04:14PM 8 A. Correct.

04:14PM 9 Q. And your attorney was part of these conversations that
04:14PM 10 you had with the government, correct?

04:14PM 11 A. Yes.

04:14PM 12 Q. He was also giving you advice about potential penalties
04:14PM 13 that you'll face, correct?

04:14PM 14 A. Correct.

04:14PM 15 Q. So, regarding these grows, you talked about the structure
04:14PM 16 and I want to talk to you about that for a second.

04:14PM 17 So, in 2008, you mentioned these grows are happening,

04:14PM 18 this is where you first approached Mr. Bongiovanni, correct?

04:14PM 19 A. Correct.

04:14PM 20 Q. And you stated that as part of your entry into this
04:15PM 21 conspiracy, one of the things you promised was I'm gonna help
04:15PM 22 you, but I'm also gonna help provide information to protect
04:15PM 23 you, correct?

04:15PM 24 A. Who had said that? I'm sorry.

04:15PM 25 Q. I'm asking you. Your entry into the conspiracy, one of

04:15PM 1 the reasons why you joined it, was to help in the --

04:15PM 2 I'm sorry, Ann.

04:15PM 3 I'm asking you, when you entered the conspiracy, one of

04:15PM 4 the jobs you had was to help grow and cultivate the

04:15PM 5 marijuana, correct?

04:15PM 6 A. Correct.

04:15PM 7 Q. And the other job that you offered, the value that you

04:15PM 8 offered to Mr. Masecchia, was that based on your relationship

04:15PM 9 with Mr. Bongiovanni, you would be able to get information to

04:15PM 10 help protect the conspiracy, correct?

04:15PM 11 A. Correct.

04:15PM 12 Q. And so in exchange for that value that you offered,

04:15PM 13 Mr. Masecchia and Mr. Serio agreed to provide you 20 to 25

04:15PM 14 percent of the profits, correct?

04:15PM 15 A. No. That was before. That -- that arrangement was made

04:15PM 16 before.

04:15PM 17 Q. That arrangement was made when?

04:15PM 18 A. When Mike and I had originally spoken, he explained to me

04:15PM 19 how it worked, and how the percentage worked.

04:16PM 20 Q. And so in 2008, the percentage that you were getting

04:16PM 21 based on your involvement was 20 to 25 percent, correct?

04:16PM 22 A. Correct.

04:16PM 23 Q. That's what you negotiated for, correct?

04:16PM 24 A. Correct.

04:16PM 25 Q. And I think you testified yesterday, you talked about

04:16PM 1 what the average profits of this for a year for your grow,
04:16PM 2 correct?

04:16PM 3 A. Correct. That fluctuated.

04:16PM 4 Q. And it was in roughly the \$100,000 to \$80,000 range,
04:16PM 5 correct?

04:16PM 6 A. It could be, yes.

04:16PM 7 Q. So you mentioned that when Mr. Bongiovanni first started
04:16PM 8 taking bribes, you were paying him \$2,000 a month, correct?

04:16PM 9 A. Correct.

04:16PM 10 Q. And you'd agree with me that \$2,000 a month times 12,
04:16PM 11 that's \$24,000 a year, correct?

04:16PM 12 A. Correct.

04:16PM 13 Q. So, on a \$100,000 operation, right --

04:16PM 14 A. Correct.

04:16PM 15 Q. -- let's say it's a good year, you're making a
04:16PM 16 \$100,000 --

04:16PM 17 A. Yes.

04:16PM 18 Q. -- the conspiracy agreed to pay you 20 to 25 percent of
04:16PM 19 that, correct?

04:16PM 20 A. Correct.

04:16PM 21 Q. And then Mr. Bongiovanni was being paid \$26,000 a year,
04:16PM 22 correct?

04:16PM 23 A. Correct.

04:16PM 24 Q. And you'd agree with me that that represents roughly 50
04:17PM 25 percent of the profits?

04:17PM 1 A. Correct. We would split whatever -- whatever total there
04:17PM 2 was, it would be split after the expense of was paid off the
04:17PM 3 top.

04:17PM 4 Q. So the 50 percent, all right, that was left over?

04:17PM 5 A. Yes.

04:17PM 6 Q. All right. That's something that would be divided up
04:17PM 7 between the other remaining parts of the conspiracy?

04:17PM 8 A. Correct. I was referencing the gross profits, what it
04:17PM 9 made. And then it was paid off the top, and then the rest
04:17PM 10 was split.

04:17PM 11 Q. So, paid off the top, and then the rest was split, right?

04:17PM 12 A. Correct.

04:17PM 13 Q. So, under that theory, you'd agree with me that the
04:17PM 14 payment for protection here is roughly taking a quarter of
04:17PM 15 whatever profits anyone's gonna be making, correct?

04:17PM 16 A. Correct.

04:17PM 17 Q. That's a large chunk of the percentage, correct?

04:17PM 18 A. Correct.

04:17PM 19 Q. And your conspirators agreed to this, correct?

04:17PM 20 A. Correct.

04:17PM 21 Q. So, you testified that you believe that Mr. Bongiovanni
04:17PM 22 took these bribes because he was in financial distress; do
04:17PM 23 you remember that?

04:17PM 24 A. Yes.

04:17PM 25 Q. He didn't declare bankruptcy like you did in 2008, right?

04:18PM 1 A. No.

04:18PM 2 Q. He didn't have multiple children like you did, correct?

04:18PM 3 A. No. He had just gone through a divorce, and he had one
04:18PM 4 child.

04:18PM 5 Q. Okay. And I know you talked about that. You said that
04:18PM 6 you two talked about some of his complaints about making
04:18PM 7 maintenance payments to his ex-spouse JoAnn, correct?

04:18PM 8 A. Correct.

04:18PM 9 Q. Were you aware that the maintenance payments ceased in
04:18PM 10 2005, sir?

04:18PM 11 A. I was not.

04:18PM 12 Q. Okay.

04:18PM 13 A. But he would talk about expenses relating to the divorce.
04:18PM 14 And I was just -- assuming that the maintenance payments were
04:18PM 15 still part of that.

04:18PM 16 Q. And like we talked about earlier, this divorce was
04:18PM 17 finalized in 2003, correct?

04:18PM 18 A. Correct. But then he still had to pay child support and
04:18PM 19 other expenses.

04:18PM 20 Q. Okay. And you had this conversation in 2008, as you
04:18PM 21 allege, correct?

04:18PM 22 A. Correct.

04:18PM 23 Q. And that's several years after the divorce, correct?

04:18PM 24 A. Correct.

04:18PM 25 Q. Maintenance payments stopped in 2005, that's several

04:18PM 1 years after the maintenance payments stopped?

04:19PM 2 **MR. TRIPI:** Objection, assumes facts not entered
04:19PM 3 through this witness. He said he didn't know when the
04:19PM 4 maintenance payments stopped.

04:19PM 5 **THE COURT:** No, overruled. He's asking you to assume
04:19PM 6 if the maintenance payments stopped in 2005, that would be
04:19PM 7 several years after that.

04:19PM 8 **THE WITNESS:** Correct. Yes.

04:19PM 9 **BY MR. SINGER:**

04:19PM 10 Q. And Mr. Bongiovanni, to your understanding, he had a
04:19PM 11 steady job with the government, correct?

04:19PM 12 A. Correct.

04:19PM 13 Q. And he was getting paid pretty well, correct?

04:19PM 14 A. Correct.

04:19PM 15 Q. He was able to afford different things, correct.

04:19PM 16 A. Correct.

04:19PM 17 Q. He's able to afford to send his child to private school,
04:19PM 18 correct?

04:19PM 19 A. Yes.

04:19PM 20 Q. He was able to afford various medical things that she
04:19PM 21 needed, correct?

04:19PM 22 A. Correct.

04:19PM 23 Q. And I know he complained about those things, correct?

04:19PM 24 A. Correct.

04:19PM 25 Q. But he still paid those things, correct?

04:19PM 1 A. Correct.

04:19PM 2 Q. And he's in a much different financial position than you
04:19PM 3 are, correct?

04:19PM 4 A. Yes.

04:19PM 5 Q. As far as the rental apartment and his property, you
04:19PM 6 testified yesterday that you believe that when Lindsay
04:19PM 7 Bongiovanni and he moved in together, correct?

04:20PM 8 A. Correct.

04:20PM 9 Q. That the rental apartment remained vacant, correct?

04:20PM 10 A. Correct. She lived upstairs, and then she moved
04:20PM 11 downstairs with him.

04:20PM 12 Q. And if you were to know that that rental apartment was
04:20PM 13 not vacant, that would change things, correct?

04:20PM 14 A. Correct. But I believe it was. I've been there, and
04:20PM 15 there was no tenant in there. She moved downstairs.

04:20PM 16 Q. When were you in there, sir?

04:20PM 17 A. Right after she moved downstairs.

04:20PM 18 Q. When was that?

04:20PM 19 A. The time frame, the 2009, 2010, whenever it was.

04:20PM 20 Q. And when was it that you were in that apartment?

04:20PM 21 A. I was Joe's house at 221 Lovering, and it was vacant
04:20PM 22 upstairs.

04:20PM 23 Q. And how long was it vacant for?

04:20PM 24 A. From the time Lindsay moved downstairs, it was still
04:20PM 25 vacant.

04:20PM 1 Q. How long was that period, sir?

04:20PM 2 A. That had to be at least five months, six months.

04:20PM 3 Q. At least five or six months?

04:20PM 4 A. Yes.

04:20PM 5 Q. So, regarding the information setup. So the setup of the

04:20PM 6 conspiracy you testified was that you were the person who

04:21PM 7 would be gathering the information and providing the

04:21PM 8 information, correct?

04:21PM 9 A. Correct.

04:21PM 10 Q. And Mr. Masecchia's role in this was that he was the

04:21PM 11 person who would be getting money and providing money to

04:21PM 12 Mr. Bongiovanni, right?

04:21PM 13 A. Correct. He would get it from Ron, and then provide it.

04:21PM 14 Q. Fair to say you never saw Mr. Masecchia pay any money to

04:21PM 15 Mr. Bongiovanni, right?

04:21PM 16 A. No, because they arranged the meeting.

04:21PM 17 Q. So they arranged those things on their own, you weren't

04:21PM 18 part of those?

04:21PM 19 A. Correct.

04:21PM 20 Q. So you never saw what happened with the money, correct?

04:21PM 21 A. No, because it was handled through Mike, which he got

04:21PM 22 from Ron.

04:21PM 23 Q. And you testified that Joseph Bongiovanni had comfort

04:21PM 24 with you, correct?

04:21PM 25 A. Correct.

04:21PM 1 Q. He was somebody that you knew, correct?

04:21PM 2 A. Yes.

04:21PM 3 Q. He was somebody -- sorry, I should say you were someone
04:21PM 4 he knew, correct?

04:21PM 5 A. Yes.

04:21PM 6 Q. And you guys had been friends for a long period of time,
04:21PM 7 correct?

04:21PM 8 A. Yes.

04:21PM 9 Q. Mike Masecchia's a little different, correct?

04:21PM 10 A. Correct. But he's known him for the same -- he's known
04:22PM 11 him for a long period of time.

04:22PM 12 Q. He's known him for a long period of time, but he's not
04:22PM 13 someone who converses on the phone with him every day or
04:22PM 14 every other day like you two, sometimes, correct?

04:22PM 15 A. Correct.

04:22PM 16 Q. Not someone who goes out to dinner all the time with
04:22PM 17 Mr. Bongiovanni, correct?

04:22PM 18 A. Correct. And neither was I.

04:22PM 19 Q. Little different situation, correct?

04:22PM 20 A. Correct.

04:22PM 21 Q. So -- so, one of the reasons that you said in your direct
04:22PM 22 testimony that Mr. Masecchia was providing the money is that
04:22PM 23 Mr. Bongiovanni was apprehensive about meeting you for the
04:22PM 24 money?

04:22PM 25 A. Yes.

04:22PM 1 Q. But he'd still meet you for the information, correct?

04:22PM 2 A. Correct. We'd meet for a drink, it would be brief, get
04:22PM 3 an update, and I'd leave. We'd hang out and be social, then
04:22PM 4 at the end of the night, I'd leave.

04:22PM 5 Q. And these meetings, when they occurred, they occurred in
04:22PM 6 bars?

04:22PM 7 A. Usually.

04:22PM 8 Q. They occurred in public places, correct?

04:22PM 9 A. Correct.

04:22PM 10 Q. There were people around you when you had these
04:22PM 11 conversations?

04:22PM 12 A. Correct, but we were alone. We were standing at the bar,
04:23PM 13 nobody could hear our conversation.

04:23PM 14 Q. How do you know that, sir?

04:23PM 15 A. Because I know. It was loud, and I'd talk in his ear,
04:23PM 16 he'd talk in my ear. It was just a conversation.

04:23PM 17 Q. You've been a bartender before, correct?

04:23PM 18 A. Correct.

04:23PM 19 Q. How many years?

04:23PM 20 A. Long time.

04:23PM 21 Q. Long time, right? Like 30-plus years?

04:23PM 22 A. Worked a lot of loud bars, too, and I haven't heard any
04:23PM 23 conversations. You can hear scattered voices, but you don't
04:23PM 24 get the context of it.

04:23PM 25 Q. I've been a bartender, too, myself. You've listened in

04:23PM 1 on conversations that people are having, right?

04:23PM 2 A. I mean, I don't --

04:23PM 3 Q. Yes or no.

04:23PM 4 A. Do I listen in purposely? No. If I --

04:23PM 5 Q. But you overhear those conversations sometimes, right,
04:23PM 6 sir?

04:23PM 7 A. I hear people talking, I don't know the context of a
04:23PM 8 conversation.

04:23PM 9 Q. And so you're talking about involvement in a narcotics
04:23PM 10 conspiracy in a bar --

04:23PM 11 A. Correct.

04:23PM 12 Q. -- in the open?

04:23PM 13 A. No, not in the open. I just mentioned, I told you, I was
04:23PM 14 close with him and talk in his ear.

04:23PM 15 Q. You said you were close to him, right?

04:23PM 16 A. When I talked to him, I would lean forward and I would
04:23PM 17 mention -- we would talk in our -- whatever context was
04:24PM 18 talked about regarding this, it was done in a close
04:24PM 19 proximity.

04:24PM 20 Q. So you were whispering in each other's ear in a bar?

04:24PM 21 A. Correct.

04:24PM 22 Q. And this occurred on a Friday night?

04:24PM 23 A. I don't remember what night, it was whatever night during
04:24PM 24 the week whenever we met.

04:24PM 25 Q. Now, that's in contrast with some of the other

04:24PM 1 conversations you testified to today, right?

04:24PM 2 A. Contest? I'm sorry --

04:24PM 3 Q. So in the later parts of this conspiracy that you talk
04:24PM 4 about, you weren't meeting Mr. Bongiovanni out at a bar or a
04:24PM 5 restaurant, right? You were meeting him at his house?

04:24PM 6 A. Met at his house, met at a bar/restaurant, we met at
04:24PM 7 different locations.

04:24PM 8 Q. You were meeting at his house for some of these
04:24PM 9 conversations, correct?

04:24PM 10 A. Correct.

04:24PM 11 Q. You were meeting him at parks for some of these
04:24PM 12 conversations, correct?

04:24PM 13 A. Not for these conversations. I mean, when I met him at a
04:24PM 14 park --

04:24PM 15 Q. For conversations regarding this conspiracy, later in the
04:24PM 16 conspiracy, you're talking about meeting him at his house,
04:24PM 17 right?

04:24PM 18 A. Yes.

04:24PM 19 Q. Talking about meeting him at a park?

04:24PM 20 A. Correct, yes.

04:25PM 21 Q. Sitting down at a bench?

04:25PM 22 A. Yes, correct.

04:25PM 23 Q. And those areas are where people really aren't present,
04:25PM 24 correct?

04:25PM 25 A. Correct.

04:25PM 1 Q. Not like a bar?

04:25PM 2 A. Correct.

04:25PM 3 Q. A little more clandestine, correct?

04:25PM 4 A. Very isolated, yes.

04:25PM 5 Q. All right. So it's a difference, correct?

04:25PM 6 A. It's a big difference, yes.

04:25PM 7 Q. So, as far as this plan that you talked about, you said

04:25PM 8 that if you were ever caught, Mr. Bongiovanni suggested to

04:25PM 9 you that you claim that you were his confidential informant,

04:25PM 10 correct?

04:25PM 11 A. Correct.

04:25PM 12 Q. But you never said that when the government raided your

04:25PM 13 house in August 2019, correct?

04:25PM 14 A. Correct.

04:25PM 15 Q. You never said, hey, I'm Mr. Bongiovanni's C.I., you need

04:25PM 16 to call him, correct?

04:25PM 17 A. He was referencing if anything happened regarding and

04:25PM 18 involving him, and then they pulled me in, and they

04:25PM 19 questioned me regarding his involvement to say I was a C.I.

04:25PM 20 Q. Well, let's talk about that. So your first proffer

04:25PM 21 meeting, you have a couple days after the search, right?

04:25PM 22 A. Yes.

04:26PM 23 Q. And in that meeting when prosecutors start asking you

04:26PM 24 questions, you don't say, hey, I'm Mr. Bongiovanni's C.I.,

04:26PM 25 can we talk to him?

04:26PM

1 A. No.

04:26PM

2 Q. So you didn't follow the plan.

04:26PM

3 A. No, I didn't know it was -- it was not regarding -- it
4 was regarding what they just raided in my basement. This
5 came out over a course of time, all this information.

04:26PM

6 Q. So you don't recall talking to them about Mr. Bongiovanni
7 in your first proffer meeting, sir?

04:26PM

8 A. I did. But I'm just saying what was coming out was what
9 had just transpired in my base -- they just raided my --

04:26PM

10 there was a search warrant executed in my house, so that's
11 what I was talking about.

04:26PM

12 Q. Mr. Selva, you knew why they raided your house, right?

04:26PM

13 A. I do, yes.

04:26PM

14 Q. You did at that time, too, back in August of 2019, right?

04:26PM

15 A. Yes.

04:26PM

16 Q. You had concerns, correct?

04:26PM

17 A. Correct. It was August of -- yes, '19, correct.

04:26PM

18 Q. So, you knew what it was about when they walked into your
19 house, correct?

04:26PM

20 A. Did I know what it was about?

04:26PM

21 Q. Correct.

04:26PM

22 A. No, not really.

04:27PM

23 Q. You didn't know?

04:27PM

24 A. I mean, they said it was a search warrant. And then I
25 didn't know at that moment. They knocked my door down, and

04:27PM 1 they searched my house. And then later on through the day,
04:27PM 2 yes.

04:27PM 3 Q. Mr. Selva, they talked to you about marijuana being found
04:27PM 4 in your house, correct?

04:27PM 5 A. Yes. I knew that day, yes.

04:27PM 6 Q. And they talked to you about when you started this
04:27PM 7 operation, correct?

04:27PM 8 A. Correct.

04:27PM 9 Q. So you clearly know at that point in time what the
04:27PM 10 purpose of their investigation is, right?

04:27PM 11 A. Correct.

04:27PM 12 Q. And you had concerns about the fact that, oh, my God,
04:27PM 13 this might be involving every one of my conspirators,
04:27PM 14 correct?

04:27PM 15 A. Correct.

04:27PM 16 Q. And, so, at that time, knowing all that, you didn't say,
04:27PM 17 I'm Mr. Bongiovanni's C.I.? You didn't say that, right?

04:27PM 18 A. No. No. Because he was involved.

04:27PM 19 Q. So as far as the information that was provided, you
04:27PM 20 talked about names, Dave Mitchkay, I think was the name
04:28PM 21 yesterday?

04:28PM 22 A. Yes.

04:28PM 23 Q. You also talked about a Siwiec or a Siwiec?

04:28PM 24 A. Yes, but Dave Siwiec was not involved.

04:28PM 25 Q. Okay. But you mentioned those names yesterday, correct?

04:28PM 1 A. Dave Siwiec was at a --

04:28PM 2 **MR. TRIPI:** Objection.

04:28PM 3 **THE WITNESS:** He had nothing to do with it.

04:28PM 4 **MR. TRIPI:** Mixing --

04:28PM 5 **THE COURT:** Stop, stop, stop.

04:28PM 6 **MR. TRIPI:** In which context?

04:28PM 7 **THE COURT:** Stop.

04:28PM 8 **MR. TRIPI:** It's confusing. That's the objection.

04:28PM 9 **THE COURT:** No. Over -- the question is, did you

04:28PM 10 talk about Dave Siwiec. That's the question. Did you talk

04:28PM 11 about a Dave Siwiec yesterday, right?

04:28PM 12 **MR. SINGER:** Correct.

04:28PM 13 **THE COURT:** Okay. That -- that's fine -- that's a

04:28PM 14 fine question.

04:28PM 15 **MR. TRIPI:** Okay.

04:28PM 16 **THE COURT:** Overruled.

04:28PM 17 **BY MR. SINGER:**

04:28PM 18 Q. You talked about Dave Siwiec yesterday, correct?

04:28PM 19 A. Yes.

04:28PM 20 Q. And you talked about Mitchkay, and wanting

04:28PM 21 Mr. Bongiovanni to check if he was in some way under

04:28PM 22 investigation, correct?

04:28PM 23 A. Mitchkay, I believe, yes.

04:28PM 24 Q. And you recall testifying that Mr. Bongiovanni said that

04:28PM 25 he was all clear after checking; is that right?

04:28PM 1 **MR. TRIPI:** Objection. Assumes facts not in
04:29PM 2 evidence. Misstates the evidence.

04:29PM 3 **THE COURT:** I don't recall, it's the jury's
04:29PM 4 recollection that will -- that will control and so I'm going
04:29PM 5 to overrule the objection because I don't recall.

04:29PM 6 **BY MR. SINGER:**

04:29PM 7 Q. Do you remember Mr. Bongiovanni telling you that it was
04:29PM 8 all clear after Mitchkay?

04:29PM 9 A. I do, yes.

04:29PM 10 Q. And Mark Falzone was somebody that you also mentioned
04:29PM 11 needed to be checked?

04:29PM 12 A. No. Mark was not on that list.

04:29PM 13 Q. Not on that list?

04:29PM 14 A. No.

04:29PM 15 Q. Frank Burkhart, was he someone that you mentioned?

04:29PM 16 A. Yes.

04:29PM 17 Q. And you do you recall Mr. Bongiovanni say that he was all
04:29PM 18 clear after a check?

04:29PM 19 A. Yes.

04:29PM 20 Q. You also talked about R.K.

04:29PM 21 A. Yes.

04:29PM 22 Q. When was it that you requested that Mr. Bongiovanni check
04:29PM 23 into R.K.?

04:29PM 24 A. The time frame when Ron gave me the list. It was -- I
04:29PM 25 don't recall the exact date. Do you have something that can

04:29PM 1 recollect my memory?

04:29PM 2 Q. I'm asking you, sir. Do you know?

04:29PM 3 A. Yes. It was, 2011, '12.

04:30PM 4 Q. 2011 or '12?

04:30PM 5 A. Yes.

04:30PM 6 Q. And you knew R.K. in some capacity, correct?

04:30PM 7 A. I knew of him.

04:30PM 8 Q. You knew of him through the Sirianni family, correct?

04:30PM 9 A. Correct.

04:30PM 10 Q. Sirianni were -- I think it was -- who was it that you

04:30PM 11 lived with who was a Sirianni?

04:30PM 12 A. Anthony had lived with me for a little while.

04:30PM 13 Q. Anthony Sirianni, you knew, you knew him because he was a

04:30PM 14 roommate of yours?

04:30PM 15 A. Yes. He'd gone through a divorce, too, yes.

04:30PM 16 Q. And he was someone that was familiar with R.K. through

04:30PM 17 the connection through Robert Runfola, correct?

04:30PM 18 A. Yes. I believe it was -- he was friends with his

04:30PM 19 brother, Robert.

04:30PM 20 Q. Correct. And Robert Runfola was the person who overdosed

04:30PM 21 and died?

04:30PM 22 A. I believe so, yes.

04:30PM 23 Q. And Peter Militello was the person who caused that

04:30PM 24 overdose as a dealer?

04:30PM 25 **MR. TRIPI:** Objection. Personal knowledge.

04:30PM

1 **MR. SINGER:** I'm asking him, Judge.

04:30PM

2 **MR. TRIPPI:** He has to have personal knowledge.

04:30PM

3 **THE COURT:** Hang on. Hang on.

04:31PM

4 Overruled. You can ask the question, the witness can
5 answer to the best of his knowledge.

04:31PM

6 **THE WITNESS:** From what I recall, yes.

04:31PM

7 **BY MR. SINGER:**

04:31PM

8 Q. And Anthony Sirianni was somebody who knew R.K., correct?

04:31PM

9 A. Correct.

04:31PM

10 Q. And you knew R.K., correct?

04:31PM

11 A. I told you I knew of him, I didn't know him.

04:31PM

12 Q. Okay. And as far as that time period you're talking
13 about, you were aware, or Mike Masecchia or Ron Serio were
14 aware, that Mr. R.K. was facing criminal charges, correct?

04:31PM

15 A. Correct.

04:31PM

16 Q. And that was one of the reasons why it was asked or you
17 asked, reportedly, Mr. Bongiovanni to go check him out,
18 correct?

04:31PM

19 A. Correct.

04:31PM

20 Q. Because all of you were aware that he had a burglary
21 charge?

04:31PM

22 A. He been arrested, correct.

04:31PM

23 Q. It was a pretty public burglary charge?

04:31PM

24 A. Yeah, and he had priors, and there was a concern that he
25 could possibly become an informant.

04:31PM 1 Q. Correct. And he was a junkie, fair to say?

04:32PM 2 A. Correct.

04:32PM 3 Q. Had a lot of problems with crack cocaine?

04:32PM 4 A. Yes.

04:32PM 5 Q. And it was well known about all these things to your

04:32PM 6 conspirators, correct?

04:32PM 7 A. Yes.

04:32PM 8 Q. And you know about those things, too, correct?

04:32PM 9 A. Correct. That's why Ron raised speculation, wanted to

04:32PM 10 have him checked out. He was worried he was going to be

04:32PM 11 become an informant.

04:32PM 12 Q. And another person you mentioned that Mr. Bongiovanni

04:32PM 13 purportedly provided information was Mario Vacanti, correct?

04:32PM 14 A. Yeah.

04:32PM 15 Q. So when did Ron Serio ask about Mario Vacanti?

04:32PM 16 A. Time frame was 2011, '12, right around there.

04:32PM 17 Q. Okay. You're aware of the fact that Mario Vacanti is

04:32PM 18 related to Sammy Vacanti, correct?

04:32PM 19 A. Correct, it's his brother.

04:32PM 20 Q. And you're aware that Sammy Vacanti was convicted of

04:32PM 21 murder, correct?

04:32PM 22 A. Yes.

04:32PM 23 Q. And you're aware that Mario Vacanti was indicted in a

04:32PM 24 federal indictment for drug conspiracy in 2011, correct?

04:33PM 25 A. I had heard, yes.

04:33PM 1 Q. You'd heard that?

04:33PM 2 A. Yes.

04:33PM 3 Q. And you're aware that he pleaded guilty to that drug
04:33PM 4 conspiracy in federal court, correct?

04:33PM 5 A. I'm not aware that he pleaded guilty, no.

04:33PM 6 Q. Are you aware of the fact that he was placed on probation
04:33PM 7 as a result of that?

04:33PM 8 **MR. TRIPPI:** Objection. Calls for hearsay. Are you
04:33PM 9 aware, are you aware. Calls for hearsay, Judge.

04:33PM 10 **THE WITNESS:** I am not.

04:33PM 11 **THE COURT:** Well, what's the reason it's being
04:33PM 12 offered.

04:33PM 13 **MR. SINGER:** Judge, if we can approach.

04:33PM 14 **THE COURT:** Come on up.

04:33PM 15 (Sidebar discussion held on the record.)

04:33PM 16 **THE COURT:** You're offering it for the witness's
04:33PM 17 state of mind, not for the --

04:33PM 18 **MR. SINGER:** Exactly.

04:33PM 19 **THE COURT:** You're offering it for the witness's
04:33PM 20 state of mind, not for the truth.

04:33PM 21 **MR. SINGER:** Not for the truth. But I'm also
04:33PM 22 offering it for the fact to rebut his allegation of he needs
04:33PM 23 information on this person, if this person was convicted of a
04:33PM 24 federal charge and on probation, why does he need information
04:33PM 25 to know whether he was an informant or not, Judge. It doesn't

04:33PM 1 make any sense.

04:33PM 2 **MR. TRIPI:** How would he know what his sentence was?

04:33PM 3 He said he didn't know he was convicted. He didn't know those
04:34PM 4 answers to those questions.

04:34PM 5 **THE COURT:** Overruled. It's not being offered for

04:34PM 6 the truth of the matter asserted, it's being offered for the

04:34PM 7 witness's state of mind. That is not hearsay. Overruled.

04:34PM 8 **MR. TRIPI:** No, but if the witness says he doesn't

04:34PM 9 know what the sentence was, I think that's what Mr. Singer

04:34PM 10 just said. He's talking about probation. The witness said he

04:34PM 11 didn't know that, Judge. That's the issue.

04:34PM 12 **THE COURT:** Well, then he can say he doesn't know.

04:34PM 13 But the hearsay objection, so if you've got another objection

04:34PM 14 other than hearsay, I'll listen to it. But the hearsay

04:34PM 15 objection is overruled because it's being offered for the

04:34PM 16 witness's state of mind. Let's go.

04:34PM 17 (Sidebar discussion ended.)

04:34PM 18 **THE COURT:** Objection is overruled.

04:34PM 19 **BY MR. SINGER:**

04:34PM 20 Q. So, I'll ask you again. Were you aware that he was

04:34PM 21 placed on probation after he pled guilty in federal court?

04:34PM 22 A. I was not.

04:34PM 23 Q. And you'd agreeing with me that getting involved with

04:34PM 24 someone who has pending federal charges is not the smartest

04:34PM 25 thing as a criminal?

04:34PM

1 A. Correct. But Ron knew him quite a long time.

04:35PM

2 Q. T.S. was someone else you mentioned, do you remember
3 that?

04:35PM

4 A. Correct.

04:35PM

5 Q. And he was somebody that Mr. Bongiovanni purportedly
6 provided information about, correct?

04:35PM

7 A. Correct.

04:35PM

8 Q. When was that request made?

04:35PM

9 A. Same time for R.K.

04:35PM

10 Q. And you related yesterday to the jury that it was done
11 because Mr. T.S. was the subject of some type of arrest
12 recently?

04:35PM

13 A. At that time, again, this came from Ron to give to Mike
14 and have me reach out to Joe.

04:35PM

15 Q. What time period was that arrest?

04:35PM

16 A. I believe 2012, '13.

04:35PM

17 Q. So, these three people, fair to say, fair statement

04:35PM

18 that -- that you were aware of the fact that they had some
19 type of criminal records, correct?

04:35PM

20 A. From what I -- yes.

04:35PM

21 Q. And was it a fair statement that Mike Masecchia was aware
22 that these people had some type of criminal records?

04:36PM

23 A. I don't know. I don't know what Mike thought about it or
24 if he knew.

04:36PM

25 Q. Did anyone ever ask you to check up on whether one of the

04:36PM 1 Suppas was under investigation?

04:36PM 2 A. No.

04:36PM 3 Q. And Mr. Bongiovanni never mentioned to you anything about

04:36PM 4 the Suppas being under investigation, correct?

04:36PM 5 A. No.

04:36PM 6 Q. So you talked a little bit about information that

04:36PM 7 Mr. Bongiovanni purportedly provided you about law

04:36PM 8 enforcement tactics; do you remember that?

04:36PM 9 A. Yes.

04:36PM 10 Q. So one of the things that you stated -- actually, let me

04:36PM 11 ask you this first. Where did this conversation happen?

04:36PM 12 A. Regarding that?

04:36PM 13 Q. Yes.

04:36PM 14 A. Either -- I believe that was at -- I believe we were out

04:36PM 15 probably on Hertel Avenue, M.T. Pocket's, Gables.

04:36PM 16 Q. When?

04:36PM 17 A. 2013, '14.

04:37PM 18 Q. So one of the things that you talked about he related to

04:37PM 19 you is to never speak on the phone?

04:37PM 20 A. Correct.

04:37PM 21 Q. So, you know that's a good idea, because Mike Masecchia

04:37PM 22 doesn't do that unless he has a burner, right?

04:37PM 23 A. Correct.

04:37PM 24 Q. And you know, based on your experience in the cell phone

04:37PM 25 business, that calls, when you make them on a cell phone, are

04:37PM 1 logged, correct?

04:37PM 2 A. They're logged, correct.

04:37PM 3 Q. So, walking into it, you know that it's not a good idea
04:37PM 4 to transact criminal business on a phone, right?

04:37PM 5 A. Right.

04:37PM 6 Q. Because it leaves a record?

04:37PM 7 A. Correct.

04:37PM 8 Q. So you agree with me that Mr. Bongiovanni is not really
04:37PM 9 telling you anything that's groundbreaking here, right?

04:37PM 10 A. Over, what? I mean --

04:37PM 11 Q. Over not using the phone to conduct criminal business?

04:37PM 12 A. Right. He was relaying from his experience, you know,
04:37PM 13 just giving me advice to be safe, don't ever talk of anything
04:37PM 14 of any significance over the phone.

04:38PM 15 Q. So another thing you said he related to you is to be
04:38PM 16 aware of your surroundings and look out for the police,
04:38PM 17 correct?

04:38PM 18 A. Correct.

04:38PM 19 Q. You'd agree with me, that's something pretty basic if
04:38PM 20 you're going to engage in criminal activity, right?

04:38PM 21 A. But he told me what to look for.

04:38PM 22 Q. Well, yeah, so he talked to you about another thing that
04:38PM 23 you mentioned yesterday, about look out for certain types of
04:38PM 24 cars with tinted windows, correct?

04:38PM 25 A. Cars, Verizon trucks, National Grid, if they're parked

04:38PM 1 down the end of the street for a while, could raise a red
04:38PM 2 flag, something could be going on.

04:38PM 3 Q. So let's focus on the cars first. So he talked to you
04:38PM 4 about SUVs, correct?

04:38PM 5 A. SUVs, Chargers, correct.

04:38PM 6 Q. And those are pretty common police vehicles, correct?

04:38PM 7 A. Correct, with tinted windows, correct.

04:38PM 8 Q. You see them on the street all the time, correct?

04:38PM 9 A. Correct.

04:38PM 10 Q. And when you see them on the street sometimes, you

04:38PM 11 probably let off the gas a little bit like everybody else,
04:38PM 12 right?

04:38PM 13 A. Correct.

04:38PM 14 Q. So he's not telling you anything you don't already know,
04:39PM 15 correct?

04:39PM 16 A. Well, it was referencing if see it around, you know, if
04:39PM 17 something was going on, for example, if they were around your
04:39PM 18 house, or if you were transporting something, and you see
04:39PM 19 those type of vehicles, when the activity was occurring.

04:39PM 20 Q. Okay.

04:39PM 21 A. Beyond that, be on the lookout for them. Just be aware
04:39PM 22 of your surroundings.

04:39PM 23 Q. So he talked to you about the use of GPS trackers, right?

04:39PM 24 A. Correct.

04:39PM 25 Q. And he actually, according to your testimony, warned you

04:39PM 1 that Mike Masecchia was someone who was being tracked by GPS,
04:39PM 2 correct?

04:39PM 3 A. Correct.

04:39PM 4 Q. And you say you related this to Mr. Masecchia, correct?

04:39PM 5 A. Correct.

04:39PM 6 Q. And you say that he changed his routine?

04:39PM 7 A. Correct.

04:39PM 8 Q. He didn't change his car though, right?

04:39PM 9 A. No. He -- he changed his routine. And I know that was
04:39PM 10 true because Joe told me that they couldn't find a location
04:39PM 11 where he was -- he had another operation with Ron, a
04:39PM 12 warehouse, and they never found it, because Mike changed his
04:39PM 13 routine.

04:40PM 14 Q. And you'd agree with me that changing your routine is not
04:40PM 15 changing the locations of where you go, right?

04:40PM 16 A. If somebody's tracking you? Yes. I mean, he stopped
04:40PM 17 going -- I don't know if he used that particular vehicle to
04:40PM 18 go to the grow house. He probably used his wife's truck, or
04:40PM 19 whatever, but he changed his routine.

04:40PM 20 Q. But you don't know. You just testified you don't what he
04:40PM 21 did?

04:40PM 22 A. I know -- Mike told me he changed his routine.

04:40PM 23 Q. Okay. So that's all you know?

04:40PM 24 A. We broke it down, I told him about it, and he changed his
04:40PM 25 routine regarding what I just mentioned.

04:40PM 1 Q. So, Ron Serio, let's talk a little bit about him. He was
04:40PM 2 a gambler, you testified yesterday, right?

04:40PM 3 A. Yes.

04:40PM 4 Q. Kind of a degenerate gambler, right?

04:40PM 5 A. He was a heavy gambler, yes.

04:40PM 6 Q. He was at the casino all the time?

04:40PM 7 A. Yes.

04:40PM 8 Q. And it wasn't just because he was gambling away money,
04:40PM 9 right?

04:40PM 10 A. I don't know, that's what I assumed. I don't know what
04:40PM 11 else he did.

04:40PM 12 Q. He conducted some money-laundering activity in the casino
04:40PM 13 to help out the organization, correct?

04:41PM 14 A. He gambled -- probably gambled with the proceeds, I -- I
04:41PM 15 don't know that.

04:41PM 16 Q. You don't know how he cleaned money at casinos?

04:41PM 17 A. He gambled quite a bit.

04:41PM 18 Q. Ron Serio also used drugs during the time frame of this
04:41PM 19 conspiracy, correct?

04:41PM 20 A. Yes.

04:41PM 21 Q. And he wasn't just using marijuana, correct?

04:41PM 22 A. I believe so, yes.

04:41PM 23 Q. He was involved in opiates?

04:41PM 24 A. Yes.

04:41PM 25 Q. He was involved in heroin?

04:41PM 1 A. I don't know.

04:41PM 2 Q. You don't know?

04:41PM 3 A. I don't know if he was involved in heroin.

04:41PM 4 Q. But you know he was involved in opiates, right?

04:41PM 5 A. OxyContin, Lortab, I don't know about heroin.

04:41PM 6 Q. And he was a big user, right?

04:41PM 7 A. Of what?

04:41PM 8 Q. Of opiates?

04:41PM 9 A. He abused it.

04:41PM 10 Q. It was something that you had concerns with and

04:41PM 11 Mr. Masecchia had concerns with, correct?

04:41PM 12 A. About Ron's abuse?

04:41PM 13 Q. Correct.

04:41PM 14 A. No.

04:42PM 15 Q. You didn't have any concerns about him keeping it

04:42PM 16 together?

04:42PM 17 A. You always wanted him to keep it together. But that I

04:42PM 18 wasn't really aware of how severe it was getting with him. I

04:42PM 19 didn't see Ron that much.

04:42PM 20 Q. Did Mr. Masecchia ever talk to you about him being

04:42PM 21 concerned about it?

04:42PM 22 A. He said that Ron would party, but he wouldn't elaborate

04:42PM 23 and tell me that it was, in depth, a concern, or he's out of

04:42PM 24 control. He would not elaborate on that.

04:42PM 25 Q. So Ron Serio also had a lot of money?

04:42PM 1 A. He did.

04:42PM 2 Q. You were at his mansion on Lebrun, correct?

04:42PM 3 A. Yes.

04:42PM 4 Q. Pretty opulent place, right?

04:42PM 5 A. Yes.

04:42PM 6 Q. He drove a luxury car, correct?

04:42PM 7 A. Yes.

04:42PM 8 Q. You were aware of multiple properties that he owns?

04:42PM 9 A. Yes.

04:42PM 10 Q. Cause there were grow operations that were conducted at

04:42PM 11 some of those properties, right?

04:42PM 12 A. Yes.

04:42PM 13 Q. And you were inside of some of those properties?

04:42PM 14 A. I was never inside, but I was aware.

04:42PM 15 Q. And he was in a much better financial situation than you,

04:42PM 16 correct?

04:42PM 17 A. Yes.

04:42PM 18 Q. Because when it came down to it, your role in this

04:43PM 19 organization was pretty limited, right?

04:43PM 20 A. Well, no, I was involved in the grow, transportation, and

04:43PM 21 meeting with Joe. So I had a pretty big role in it.

04:43PM 22 Q. You testified yesterday that your profits that you're

04:43PM 23 making off of this were roughly \$15- to \$20,000 a year,

04:43PM 24 right?

04:43PM 25 A. Correct.

04:43PM 1 Q. And Ron Serio was making far more than that?

04:43PM 2 A. Ron had far more going on. Like, the distribution from
04:43PM 3 the trucking operation when he was getting it from California
04:43PM 4 and British Columbia, those areas. I was not involved in
04:43PM 5 that.

04:43PM 6 Q. Yeah, and I guess that's what I'm getting at, sir, is you
04:43PM 7 weren't involved in the larger conspiracy to a very large
04:43PM 8 degree, correct?

04:43PM 9 A. No. That was much more profitable for them, and I was
04:43PM 10 not involved in that.

04:43PM 11 Q. So, they would help out sometimes with your rent payments
04:43PM 12 or electric bills, right?

04:43PM 13 A. For whatever was done on my house, yes.

04:43PM 14 Q. And you got paid based on your activities with the
04:44PM 15 marijuana that you stored or processed or grew, correct?

04:44PM 16 A. Correct.

04:44PM 17 Q. And you were sometimes paid for help with distribution,
04:44PM 18 correct?

04:44PM 19 A. It was all based on the gross profit. So whatever the
04:44PM 20 percentage was, I would get a percentage of that minus the
04:44PM 21 expenses of whatever, that was always taken off the top.

04:44PM 22 Q. And you weren't a large seller of marijuana yourself,
04:44PM 23 correct?

04:44PM 24 A. No.

04:44PM 25 Q. Because you were still working your same jobs right?

04:44PM 1 A. Correct.

04:44PM 2 Q. You were still working tending bar?

04:44PM 3 A. At that time, yes.

04:44PM 4 Q. Still doing sales?

04:44PM 5 A. Yes.

04:44PM 6 Q. But you still had money problems at that time, correct?

04:44PM 7 A. Correct.

04:44PM 8 Q. Like, you couldn't even afford to buy your suit for

04:44PM 9 Mr. Bongiovanni's wedding in 2015, right?

04:44PM 10 A. I could afford to buy that.

04:44PM 11 Q. But he bought it for you anyway?

04:44PM 12 A. It was a gesture he made.

04:44PM 13 Q. You couldn't afford to buy your plane ticket?

04:44PM 14 A. I bought my plane ticket.

04:44PM 15 Q. You bought your plane ticket?

04:44PM 16 A. I bought my plane ticket, yes, I did.

04:44PM 17 Q. You paid for the hotel?

04:45PM 18 A. Yes, I did.

04:45PM 19 Q. During all this time, safe to say that Ron Serio didn't

04:45PM 20 compensate you 100 percent to the degree that you devoted to

04:45PM 21 the organization?

04:45PM 22 A. No. No. I felt it was fair.

04:45PM 23 Q. So, the money payments that Ron Serio made, they were

04:45PM 24 made by Mike Maseccchia to Joe Bongiovanni, according to your

04:45PM 25 testimony, right?

04:45PM

1 A. Yes.

04:45PM

2 Q. You testified earlier Ron Serio never met with Joe
3 Bongiovanni to your knowledge, right?

04:45PM

4 A. No.

04:45PM

5 Q. Ron Serio never paid Joseph Bongiovanni directly,
6 correct?

04:45PM

7 A. Correct.

04:45PM

8 Q. Mike Masecchia was the one who handled all the payments,
9 right?

04:45PM

10 A. Yes. Ron would pay Mike, and Mike would take care of it.

04:45PM

11 Q. And Mike was kind of like you, like, he wasn't living a
12 high life in a mansion like Ron Serio, right?

04:45PM

13 A. Mike was living better than me.

04:45PM

14 Q. But he wasn't living like Ron Serio?

04:45PM

15 A. No. Ron was in a different category. Mike was living
16 much better than me.

04:45PM

17 Q. And Ron Serio, when he gives this money to Mike
18 Masecchia, he doesn't have any firsthand knowledge of where
19 the money goes after that, right?

04:46PM

20 A. When Ron gives it to Mike? No, he knows where it's
21 going.

04:46PM

22 Q. He knows what Mike Masecchia is telling him, right?

04:46PM

23 A. He knows where it's going, yes.

04:46PM

24 Q. And he knows what you're telling him, right?

04:46PM

25 A. Yes.

04:46PM 1 Q. And he knows what Mike Masecchia is telling him about the
04:46PM 2 money, correct?

04:46PM 3 A. Yes.

04:46PM 4 Q. And Ron Serio is aware of your relationship with Joseph
04:46PM 5 Bongiovanni, correct?

04:46PM 6 A. Correct.

04:46PM 7 Q. Ron Serio believed that you had a tight relationship,
04:46PM 8 based on your conversations with him, right?

04:46PM 9 A. Yes.

04:46PM 10 Q. And Ron Serio was also told by Mike Masecchia that he
04:46PM 11 knew Joseph Bongiovanni to some degree, correct?

04:46PM 12 A. Mike knew Joe?

04:46PM 13 Q. Mike knew Joe.

04:46PM 14 A. Yes. We all grew up, and they've known each other a long
04:46PM 15 time.

04:46PM 16 Q. And these conversations helped develop trust with Serio
04:46PM 17 about what was happening, correct?

04:46PM 18 A. Correct.

04:46PM 19 Q. And, I mean, when it comes down to it, that's the main
04:47PM 20 reason why you were brought into this conspiracy, right?

04:47PM 21 A. Correct.

04:47PM 22 Q. Was, was that you could help potentially protect Ron
04:47PM 23 Serio, correct?

04:47PM 24 A. No, I again, I was brought, again, I approached them
04:47PM 25 because I wanted -- I was having financial difficulties, and

04:47PM 1 then through the course of time, it evolved the way it's
04:47PM 2 evolved. So, yes.

04:47PM 3 Q. So, you're involved in this marijuana conspiracy for more
04:47PM 4 than a decade right?

04:47PM 5 A. 10, 11 years.

04:47PM 6 Q. 2017, Ron Serio is arrested, correct?

04:47PM 7 A. Correct.

04:47PM 8 Q. 2019, Mike Masecchia is arrested?

04:47PM 9 A. Yes. He was, yes.

04:47PM 10 Q. 2019, your house is searched, correct?

04:47PM 11 A. Yes. My house and Mike's house was searched the same
04:47PM 12 day.

04:47PM 13 Q. And like we talked about earlier, you were concerned
04:47PM 14 about the possibility of spending time in jail as a result of
04:47PM 15 what you got involved in, right?

04:47PM 16 A. Correct.

04:47PM 17 Q. That's why you hired a lawyer, correct?

04:47PM 18 A. Correct.

04:47PM 19 Q. And that's why you chose to sit down with the government
04:47PM 20 as part of a proffer agreement, correct?

04:47PM 21 A. Correct.

04:47PM 22 Q. So, you were also a corrections officer at the time that
04:48PM 23 this all went down in 2019, right?

04:48PM 24 A. Correct. I was at the holding center, correct.

04:48PM 25 Q. You were working there for several months, right?

04:48PM 1 A. Yes.

04:48PM 2 Q. And your job was as a jailer, correct?

04:48PM 3 A. Correct.

04:48PM 4 Q. You'd spend time inside the pods, correct?

04:48PM 5 A. Correct.

04:48PM 6 Q. And you saw the conditions in there, correct?

04:48PM 7 A. Correct.

04:48PM 8 Q. They weren't the best?

04:48PM 9 A. No.

04:48PM 10 Q. They were dangerous?

04:48PM 11 A. At times, yes.

04:48PM 12 Q. You have any altercations that happened while you were a

04:48PM 13 corrections officer?

04:48PM 14 A. No. I mean, none that I can recall. It was pretty,

04:48PM 15 just, routine. Everything was a routine in there.

04:48PM 16 Q. So that gave you a pretty interesting perspective in what

04:48PM 17 jail looks like, correct?

04:48PM 18 A. Yes.

04:48PM 19 Q. More so than the average person, correct?

04:48PM 20 A. Yes.

04:48PM 21 Q. And you also, at that point in time, were a law

04:48PM 22 enforcement officer, right?

04:48PM 23 A. I was a deputy sheriff, yes.

04:48PM 24 Q. And so you understood that the only thing worse than

04:49PM 25 being in jail is being a cop in jail, correct?

04:49PM

1 A. Correct.

04:49PM

2 **MR. TRIPI:** Objection. Objection. 403.

04:49PM

3 **THE COURT:** Overruled.

04:49PM

4 **MR. TRIPI:** I'm making an argument here.

04:49PM

5 **THE COURT:** Overruled.

04:49PM

6 **MR. TRIPI:** Okay.

04:49PM

7 **BY MR. SINGER:**

04:49PM

8 Q. So you understood that?

04:49PM

9 A. Yes.

04:49PM

10 Q. So, it's with all that context that you decide to

04:49PM

11 cooperate with the government, right?

04:49PM

12 A. Yes. And I also wanted to come forward and be truthful.

04:49PM

13 Q. So, when you tell law enforcement about Ron Serio, and

04:49PM

14 Mike Masecchia, and your involvement, you leave out these

04:49PM

15 bribes to Joe Bongiovanni first, right?

04:49PM

16 A. Correct.

04:49PM

17 Q. And law enforcement, at some point in time, tells you

04:49PM

18 that they don't think you're being straight with them, right?

04:49PM

19 A. Correct.

04:49PM

20 Q. So your attorney, I'm sure, you know, talked to you about

04:49PM

21 what the government controls, right?

04:49PM

22 A. Yes.

04:49PM

23 Q. They control consideration on any type of pleas or

04:50PM

24 charges, right?

04:50PM

25 A. Correct.

04:50PM 1 Q. And you're also aware of the fact that, you know, Ron
04:50PM 2 Serio's arrested, right?

04:50PM 3 A. Yes.

04:50PM 4 Q. And he's been arrested at that point for more than two
04:50PM 5 years, right?

04:50PM 6 A. Yes.

04:50PM 7 Q. And he's out of custody at that time, right?

04:50PM 8 A. Yes.

04:50PM 9 Q. And he's probably facing charges as well, right?

04:50PM 10 A. Yes.

04:50PM 11 Q. So, after all that, you start to talk about
04:50PM 12 Mr. Bongiovanni's involvement, right?

04:50PM 13 A. Yes. As time -- as I met more with law enforcement, my
04:50PM 14 attorney advised just be truthful, come forward, there was no
04:50PM 15 immunity, nothing processed like that. So --

04:50PM 16 Q. And these prosecutors, you know, at that point in time,
04:50PM 17 they believed that you're telling the truth, right?

04:50PM 18 A. Yes.

04:50PM 19 **MR. TRIPPI:** Objection as to what prosecutors
04:50PM 20 believed.

04:50PM 21 **THE COURT:** Sustained. Sustained. Jury will strike
04:50PM 22 that.

04:50PM 23 **BY MR. SINGER:**

04:50PM 24 Q. And your lawyer tells you that if you continue to talk
04:51PM 25 about Mr. Bongiovanni's involvement, as well as others'

04:51PM 1 involvement in this case, you know, potentially the
04:51PM 2 government's going to give you consideration for that, right?

04:51PM 3 A. No. He -- he didn't -- he said just be truthful, and
04:51PM 4 whatever happens at the end, we'll deal with it then. So
04:51PM 5 there was no immunity, there was no deal in place.

04:51PM 6 Q. Mr. Selva, I guess that's true. Like, you're not
04:51PM 7 charged, as you sit here today, with anything, right?

04:51PM 8 A. Correct.

04:51PM 9 Q. You don't know what's going to happen to you?

04:51PM 10 A. No.

04:51PM 11 Q. No one's made any commitments?

04:51PM 12 A. Correct.

04:51PM 13 Q. But your lawyer is a good one, right?

04:51PM 14 A. Yes.

04:51PM 15 Q. And I'm sure that you're here today because you have the
04:51PM 16 expectation that you'll get some benefit out of this, right?

04:51PM 17 A. I'm here today to tell the truth, be forward.

04:51PM 18 Q. But you also want to help yourself, right, sir?

04:51PM 19 A. I'm here today to tell the truth. I'm being forward.

04:51PM 20 Q. And you're not here to help yourself?

04:51PM 21 A. I'm hoping at the end it all works out, but I'm here.

04:52PM 22 Q. Because you hope not to go to jail for a longer period of
04:52PM 23 time, right?

04:52PM 24 A. Correct.

04:52PM 25 Q. But your hope is that if you testify here today --

04:52PM

1 A. But that's not guaranteed --

04:52PM

2 Q. It's not guaranteed that --

04:52PM

3 **THE COURT:** One at a time, guys.

04:52PM

4 **BY MR. SINGER:**

04:52PM

5 Q. It's not guaranteed, but it's an expectation that you
6 have, right?

04:52PM

7 A. It's not an expectation. I don't know what's gonna
8 happen.

04:52PM

9 Q. You testified earlier on direct that you don't want to be
10 here, right?

04:52PM

11 A. No.

04:52PM

12 Q. Not something that's fun?

04:52PM

13 A. No.

04:52PM

14 Q. Not something you want to do?

04:52PM

15 A. No.

04:52PM

16 Q. So you're here for a reason, right?

04:52PM

17 A. I'm here to tell the truth.

04:52PM

18 Q. And that's the only reason why you're here, sir?

04:52PM

19 A. I'm here to tell the truth. There was no deal promised.

04:52PM

20 There's nothing like that. That's it.

04:52PM

21 Q. So, there's something you're still hiding, right?

04:52PM

22 A. I'm sorry?

04:52PM

23 Q. There's something you're still hiding, right?

04:52PM

24 A. No.

04:52PM

25 Q. Throughout the years, you've always told Ron Serio that

04:52PM 1 his money was being paid to Joseph Bongiovanni, right?

04:52PM 2 A. I didn't tell Ron that, Mike did.

04:53PM 3 Q. Mike said it?

04:53PM 4 A. Yes.

04:53PM 5 Q. And you've also told Ron Serio that you're providing

04:53PM 6 information that Mr. Bongiovanni purportedly tells you,

04:53PM 7 correct?

04:53PM 8 A. Correct.

04:53PM 9 Q. And this involves information regarding R.K., correct?

04:53PM 10 A. Correct.

04:53PM 11 Q. Involves information regarding Mario Vacanti?

04:53PM 12 A. Correct.

04:53PM 13 Q. T.S.?

04:53PM 14 A. Correct.

04:53PM 15 Q. And of those other people we talked about, right?

04:53PM 16 A. Correct.

04:53PM 17 Q. People that you know, correct?

04:53PM 18 A. Yes.

04:53PM 19 Q. People that you know from the neighborhood?

04:53PM 20 A. Yes.

04:53PM 21 Q. People that you know through your personal associations?

04:53PM 22 A. No, I just know them from a -- I don't know them on a personal level, but I know of them, yes.

04:53PM 23 Q. People you know through some of your friends, correct?

04:53PM 24 A. Yes.

04:53PM 1 Q. People that you know just from general public news,
04:53PM 2 correct?

04:53PM 3 A. If they're in the news and I read it, yeah. But I knew
04:53PM 4 who they were, they're from the neighborhood.

04:53PM 5 Q. And you communicated those things up to Mr. Serio,
04:53PM 6 correct?

04:53PM 7 A. Correct.

04:53PM 8 Q. And he had the belief that you were providing him
04:53PM 9 information that you got from Joseph Bongiovanni, correct?

04:53PM 10 A. No. If it was specific. If it was specific. Specific
04:54PM 11 information.

04:54PM 12 Q. But that's --

04:54PM 13 A. That's what I provided.

04:54PM 14 Q. But he had that belief, otherwise he wouldn't continue to
04:54PM 15 pay, correct?

04:54PM 16 A. Ron did, yes, he did.

04:54PM 17 Q. Mr. Selva, isn't it true that you pocketed the money with
04:54PM 18 Mike Masecchia?

04:54PM 19 A. No.

04:54PM 20 Q. You didn't pocket the money?

04:54PM 21 A. No, I did not.

04:54PM 22 Q. You didn't keep it yourself?

04:54PM 23 A. I did not, no.

04:54PM 24 Q. You didn't do that because of the trust you gained with
04:54PM 25 Ron Serio?

04:54PM 1 A. No, I did not.

04:54PM 2 Q. You didn't do that based on his drug addiction?

04:54PM 3 A. I did not, no.

04:54PM 4 Q. You did not try to take advantage of him with Mike

04:54PM 5 Masecchia?

04:54PM 6 A. No, I did not.

04:54PM 7 Q. Mr. Selva, you testified earlier that Mike Masecchia is

04:54PM 8 someone you referred to, or others referred to, as Gorilla,

04:54PM 9 correct?

04:54PM 10 A. Correct.

04:54PM 11 Q. And he's someone that didn't just get that name out of

04:54PM 12 nowhere, right?

04:54PM 13 A. That's correct.

04:54PM 14 Q. He's somebody who's a tough guy, right?

04:54PM 15 A. Correct.

04:54PM 16 Q. He has a bad reputation, correct?

04:54PM 17 A. He does.

04:54PM 18 Q. He has something that you fear, right?

04:55PM 19 A. Yes.

04:55PM 20 Q. You fear him, correct?

04:55PM 21 A. I wouldn't want to have a problem with him, no.

04:55PM 22 Q. And so if Mike Masecchia is taking that money, you'd have

04:55PM 23 concerns about saying otherwise, right?

04:55PM 24 A. No.

04:55PM 25 **MR. TRIPI:** Objection. Speculative.

04:55PM 1 **THE COURT:** Overruled.

04:55PM 2 **BY MR. SINGER:**

04:55PM 3 Q. No?

04:55PM 4 A. If, can you repeat the question.

04:55PM 5 Q. If Mike Masecchia was taking that money, you would have
04:55PM 6 concerns about outing Mike Masecchia's ruse to Ron Serio,
04:55PM 7 correct?

04:55PM 8 A. I would -- if Mike was not paying, I would tell Ron, if I
04:55PM 9 knew that.

04:55PM 10 Q. You would tell Ron?

04:55PM 11 A. I would tell him, yes.

04:55PM 12 Q. Even though you might face repercussions?

04:55PM 13 A. I -- I wouldn't care.

04:55PM 14 Q. Mr. Selva, when you applied to the sheriff's office --

04:55PM 15 A. Yes.

04:55PM 16 Q. -- you got references, correct?

04:55PM 17 A. Yes.

04:55PM 18 Q. One of them was Mr. Bongiovanni, correct?

04:55PM 19 A. Yes.

04:55PM 20 Q. Another person was Judge Mark Grisanti, correct?

04:56PM 21 A. Correct.

04:56PM 22 Q. Another person was Thomas Phillips, correct?

04:56PM 23 A. Correct.

04:56PM 24 Q. Thomas Phillips was the chief of police?

04:56PM 25 A. In Kenmore, yes.

04:56PM 1 Q. These people wouldn't have endorsed you if they knew
04:56PM 2 about what you were doing in your drug conspiracy days,
04:56PM 3 correct?

04:56PM 4 A. That's correct.

04:56PM 5 Q. But you hid this from them, correct?

04:56PM 6 A. Correct.

04:56PM 7 Q. They didn't know anything?

04:56PM 8 A. No.

04:56PM 9 Q. And on your application to the sheriff's office, one of
04:56PM 10 those questions, do you remember, asked you whether or not
04:56PM 11 there was anything that you should raise to them during your
04:56PM 12 application process that may potentially disqualify you for
04:56PM 13 being a sheriff, correct?

04:56PM 14 A. Correct.

04:56PM 15 Q. And you didn't tell them anything about this, correct?

04:56PM 16 A. No.

04:56PM 17 Q. So you're capable of not saying truthful things to
04:56PM 18 people, correct?

04:56PM 19 A. For that pos -- for that particular incident, yes.

04:56PM 20 **MR. SINGER:** I have no further questions, Judge.

04:56PM 21 **MR. TRIPI:** Redirect, Your Honor.

04:57PM 22 **THE COURT:** Yes.

04:57PM 23 **MR. TRIPI:** I'll try to keep it quick.

04:57PM 24

04:57PM 25

04:57PM
1**REDIRECT EXAMINATION BY MR. TRIPI:**04:57PM
2

Q. On that last note, that application, you didn't hide anything from the defendant because you were involved with him, correct?

04:57PM
5

A. Correct.

04:57PM
6

Q. Explain for this jury how you know, in fact, the money Ron was paying was making its way to Bongiovanni. Tell them.

04:57PM
8

A. When -- I'm sorry. That would come from Mike direct.

04:57PM
9

Mike would meet with him once a month, and call him, I gave him his cell phone. Mike had five or six different burner phones. They'd set a location, and they would meet. It was real quick.

04:57PM
13

Q. Did confidential information get passed to you by the defendant?

04:57PM
15

A. Yes.

04:57PM
16

Q. Did you pass that to a made man named Mike Masecchia?

04:57PM
17

A. Yes.

04:57PM
18

Q. Now you were asked about some time frames. I just want to go through those really quickly.

04:57PM
20

At times when Mr. Singer was asking you questions, were you estimating time frames?

04:58PM
22

A. I was estimating, yes, sir.

04:58PM
23

Q. With regard to R.K., just to be clear about when that information got passed from the defendant to you, to Masecchia, and Serio, was that after R.K. got in trouble?

04:58PM 1 A. Yes.

04:58PM 2 Q. Okay. And then in relation to R.K., was T.S.'s
04:58PM 3 information passed in close proximity to that?

04:58PM 4 A. Yes. Same time frame.

04:58PM 5 Q. Okay. And was the information regarding Mario Vacanti
04:58PM 6 after that?

04:58PM 7 A. It was after that, yes.

04:58PM 8 Q. So they weren't all in the same time frame?

04:58PM 9 A. No.

04:58PM 10 Q. Vacanti was different?

04:58PM 11 A. Yeah. Completely different. Yes.

04:58PM 12 Q. Okay. Now, Mr. Singer asked you a question, he said,
04:58PM 13 well on September 11th, you didn't tell the government that,
04:58PM 14 you know, you were Defendant's C.I.; do you remember that
04:58PM 15 question?

04:58PM 16 A. Yes.

04:58PM 17 Q. But on September 5th you had a polygraph, correct?

04:58PM 18 A. Correct.

04:58PM 19 Q. What did you say in the polygraph about whether you -- in
04:58PM 20 the pre-test interview about whether you were his C.I.?

04:58PM 21 A. I told them I wasn't.

04:58PM 22 Q. In the pre-test interview?

04:58PM 23 A. Oh, I'm sorry. In the pre-test, I was.

04:59PM 24 Q. Okay. And then you failed your polygraph?

04:59PM 25 A. And I failed my polygraph.

04:59PM 1 Q. And then what did you tell them? That was a cover story?

04:59PM 2 A. That was a cover story, correct.

04:59PM 3 Q. Why did Mike want to handle the payments with

04:59PM 4 Bongiovanni?

04:59PM 5 A. That was the arrangement that was made. He said he'll

04:59PM 6 take care of him directly.

04:59PM 7 Q. Did you question the made man that's nicknamed the

04:59PM 8 Gorilla when he said he'll handle the payments?

04:59PM 9 A. No.

04:59PM 10 Q. Now, when Mr. Singer was questioning you, at one point he

04:59PM 11 said you were making 20 to 25 percent of the profits. I

04:59PM 12 think on direct you said 20- to \$25,000, which was 14 to 15

04:59PM 13 percent. Which is correct?

04:59PM 14 A. It was a percentage of the profit. 14 -- usually it was

04:59PM 15 14- to 15,000.

04:59PM 16 Q. So what you said on direct was accurate?

04:59PM 17 A. Yes, it was.

04:59PM 18 Q. What you said on cross was inaccurate?

04:59PM 19 A. It was inaccurate, yes.

05:00PM 20 Q. Now, the plants at each grow, the outdoor grow, that was

05:00PM 21 the money that you were participating in?

05:00PM 22 A. Correct.

05:00PM 23 Q. The conspiracy was much larger than just the outdoor

05:00PM 24 grow?

05:00PM 25 A. It was, yes.

05:00PM 1 Q. Now, the 50 plants, 40 to 50 plants or whatever it was at
05:00PM 2 each grow, you were hoping to get a pound per plant, right?

05:00PM 3 **MR. SINGER:** Objection, leading.

05:00PM 4 **THE WITNESS:** Yes.

05:00PM 5 **THE COURT:** Hang on. He's just summarizing what he's
05:00PM 6 already testified to, so overruled. Go ahead.

05:00PM 7 **BY MR. TRIPI:**

05:00PM 8 Q. So to do some the math --

05:00PM 9 **THE COURT:** Let's not lead.

05:00PM 10 **MR. TRIPI:** Yes.

05:00PM 11 **BY MR. TRIPI:**

05:00PM 12 Q. Remind the jury how much you were selling it for per
05:00PM 13 pound.

05:00PM 14 A. For the indoor or for the outdoor?

05:00PM 15 Q. The outdoor grows.

05:00PM 16 A. Outdoors was 2,800, sometimes 3,000. But on the average
05:00PM 17 \$2,800 a pound.

05:00PM 18 Q. Let's use the low end.

05:00PM 19 A. 2,800.

05:00PM 20 Q. You've got 50 plants at one, 50 at another. That's 100,
05:00PM 21 correct?

05:00PM 22 A. Correct.

05:00PM 23 Q. The goal is 100 pounds, right?

05:00PM 24 A. Correct.

05:00PM 25 Q. 100 times 2,800 is \$280,000, correct?

05:01PM 1 A. Correct.

05:01PM 2 Q. And -- and that's just for the outdoor grow?

05:01PM 3 A. Correct.

05:01PM 4 Q. And that was every year?

05:01PM 5 A. Correct.

05:01PM 6 Q. Now, there was a meeting at Western Door; do you remember

05:01PM 7 you were asked questions about that?

05:01PM 8 A. Yes.

05:01PM 9 Q. I think on your cross, you stated that meeting was a

05:01PM 10 different meeting though; is that right?

05:01PM 11 A. But it was still regarding the operation.

05:01PM 12 Q. Okay. Regarding the operation, but not the original

05:01PM 13 negotiation?

05:01PM 14 A. Correct.

05:01PM 15 Q. What was the meeting at Western Door about? Tell the

05:01PM 16 jury.

05:01PM 17 A. The meeting at the Western Door was to talk about a

05:01PM 18 proposal they wanted to make, \$4,000.

05:01PM 19 Q. Was there information about a bust that was discussed

05:01PM 20 there? Giving Joe a bust?

05:01PM 21 A. Yes.

05:01PM 22 Q. Describe that conversation.

05:02PM 23 A. Ron had mentioned that he can feed information for Joe,

05:02PM 24 through Mike or through myself, that something was going on

05:02PM 25 to kind of deteriorate things a little bit.

05:02PM 1 Q. Did the defendant ask you anything about helping him out?

05:02PM 2 A. Helping, yes, he did.

05:02PM 3 Q. What did the defendant ask you?

05:02PM 4 A. He asked me if Ron could provide somebody that he knows

05:02PM 5 that is of a less significance to help push the trial off a

05:02PM 6 little bit, so to speak, give him a bust, give him something.

05:02PM 7 Q. Ultimately, that was not agreed to, correct?

05:02PM 8 A. Correct, it was not.

05:02PM 9 Q. Was that discussed at the meeting at the Western Door as

05:02PM 10 far as you recall it?

05:02PM 11 A. As far as I recall, yes.

05:02PM 12 Q. You were asked questions about cocaine usage. Would it

05:02PM 13 be fair to say that you initially withheld information about

05:03PM 14 your own drug use and the defendant's?

05:03PM 15 A. Yes.

05:03PM 16 Q. You were asked information about landscapers and

05:03PM 17 contractors. In your life experience, do those people take

05:03PM 18 cash payment?

05:03PM 19 A. Yes.

05:03PM 20 Q. On cross, I think Mr. Singer said it was Peter Gerace who

05:03PM 21 told you about the probation situation. I just want to

05:03PM 22 clarify. Who told you about this defendant helping Peter

05:03PM 23 Gerace out regarding federal probation?

05:03PM 24 A. Joe.

05:03PM 25 Q. The defendant told you?

05:03PM 1 A. The defendant.

05:03PM 2 Q. And there was one more question, I think. Oh, the last
05:03PM 3 one I wanted to ask you was: You were asked by Mr. Singer
05:03PM 4 about Fred Bongiovanni, the defendant's father's clam stand,
05:03PM 5 right?

05:03PM 6 A. Yes.

05:03PM 7 Q. What restaurant was the defendant's father's clam stand
05:03PM 8 in front of on the West Side of Buffalo?

05:04PM 9 A. It was Scottie's. It was in front of the Turf Club. It
05:04PM 10 was on Busti Avenue.

05:04PM 11 Q. Where was LaNova?

05:04PM 12 A. LaNova's on West Ferry.

05:04PM 13 Q. Was his clam stand in front of LaNova?

05:04PM 14 A. Not as far as I know.

05:04PM 15 **MR. TRIPI:** I have nothing more.

05:04PM 16 **THE COURT:** Anything more, Mr. Singer?

05:04PM 17 **MR. SINGER:** Just one moment, Judge.

05:04PM 18 It's been a long day, Judge, so no further questions.

05:04PM 19 **THE COURT:** Okay. You can step down, Mr. Selva.

05:04PM 20 (Witness excused at 5:04 p.m.)

05:04PM 21 (Excerpt concluded at 5:04 p.m.)

05:04PM 22 * * * * *

05:04PM 23

05:04PM 24

05:04PM 25

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2 **CERTIFICATE OF REPORTER**

3

4 In accordance with 28, U.S.C., 753(b), I
5 certify that these original notes are a true and correct
6 record of proceedings in the United States District Court for
7 the Western District of New York on February 22, 2024.

8

9

10 s/ Ann M. Sawyer
11 Ann M. Sawyer, FCRR, RPR, CRR
Official Court Reporter
U.S.D.C., W.D.N.Y.

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